

Farm Labor Contractor License Examination Study Guide



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Foreword

Modern farming is a complex and often dangerous task requiring that hand labor work in concert with sophisticated machinery and an enormous variety of chemical aids against the vagaries of nature and the perishability of the produce.

Farm labor contracting has become the predominant means of supplying to farms the workers who plant, cultivate, harvest, and pack California's agricultural bounty. Farm labor contractors must ensure that their workers are not exposed to hazards, that they are linked to emergency medical care in case of accident, that farmworkers are insured against injury at work and during transport to the fields, that they are informed about injury and illness prevention, that they are trained in pesticide safety, that migrants are supplied with safe and sanitary housing, that children do not work in hazardous occupations or work excessive hours, and that all farmworkers are properly paid for their labor, among many other responsibilities.

Over 1000 farm labor contractors occupy this critical niche in California agriculture. Our Legislature saw the need to license farm labor contractors to ensure that those who engage in contracting understand and meet all the responsibilities that the profession requires. Part of that licensing procedure requires that every applicant for a new license or a license renewal take an examination that demonstrates their command of basic labor and health and safety laws that protect farmworkers.

The Department of Industrial Relations (DIR) Division of Labor Standards Enforcement (DLSE) recognizes that the laws are many and complex, and we hope that this Study Guide will provide an understandable summary of the laws relevant to farm labor contracting as well as a guide to the laws themselves. The Study Guide also provides to contractors an excellent tool for training their field supervisors in basic labor and health and safety laws—yet another responsibility contractors have under the law.

Our laws are complex, but they express our common goal: to ensure that each farmworker who ventures into the fields to plant, cultivate, harvest, and pack the food for our families can do so without fear of injury or illness and with the assurance that they can take home to their families the full wage promised for their labor.

Acknowledgments

A guide that explains the laws and regulations affecting California's farm labor contractors could not be developed without the help of many people. DLSE expresses its sincere appreciation to each of the state agencies below for their assistance:

Department of Pesticide Regulation

California Highway Patrol

Department of Motor Vehicles

DIR Division of Occupational Safety & Health

Department of Housing & Community Development

Introduction

This Study Guide covers all the basic information that will be on the Farm Labor Contractor License Examination. If you read each chapter and learn the material in the Study Charts following most chapters, you will do well on the test.

Because you must obey all the laws and regulations cited in the Study Guide once you become a farm labor contractor, information on reading and understanding legal citations is found on the next page.

The Guide also refers to pamphlets, posters and other resources that will help you meet government requirements—for example, every California employer must have a written Injury and Illness Prevention Program (IIPP); and the Department of Pesticide Regulation requires several postings. The required materials can be downloaded from the Web sites of the agencies involved.

The Study Guide may also be used to train your field supervisors. The law requires that you make sure they are familiar with laws and regulations governing the employment of agricultural workers—especially those related to wages, working conditions, and safety and health. Pesticide safety now requires special training for fieldworkers. This Study Guide provides only partial information for that training—for complete information on the requirements please visit the website of the Department of Pesticide Regulation, www.cdpr.ca.gov.

For your own protection, keep your Study Guide current by removing outdated materials and adding new information. Even if you are taking the test for the first time and do not pass, keep the Study Guide for reference.

Good luck on your exam.

How to read and understand legal citations

This Study Guide uses abbreviations like (LC 1695) or (8 CCR 3341) or (29 CFR 500.130) to provide the laws and regulations the requirements are based on. Each citation refers to a specific law or regulation.

Laws are recorded in Codes by subject. Each law in a Code is referred to as a numbered section—for example, Labor Code Section 205 is cited as (LC 205).

Regulations are rules made by government agencies that have the force of law. Each regulation is numbered and recorded in volumes by title number. For example, pesticide regulations are in Title 3 of the California Code of Regulations, and a reference to Section 6670 of Title 3 would be cited as (3 CCR 6770).

The Codes referred to in this Study Guide are shown below with their abbreviations. The full text of the applicable laws and regulations may be found on the Internet at the Web sites shown.

Name of code	Abbreviation	Web site
California Code of Regulations Title 3	3 CCR	www.cdpr.ca.gov/docs/legbills/regshome.htm
California Code of Regulations Title 8	8 CCR	www.dir.ca.gov/samples/search/query.htm
Education Code	EC	www.leginfo.ca.gov/calaw.html
Food & Agriculture Code	FAC	www.leginfo.ca.gov/calaw.html
Government Code	GC	www.leginfo.ca.gov/calaw.html
Health & Safety Code	HSC	www.leginfo.ca.gov/calaw.html
Labor Code	LC	www.leginfo.ca.gov/calaw.html
Vehicle Code	VC	www.leginfo.ca.gov/calaw.html
United States Code (federal law)	USC	www.gpoaccess.gov/USCODE/index.html
Code of Federal Regulations	CFR	www.gpoaccess.gov/ECFR/
Unemployment Insurance Code	UIC	www.leginfo.ca.gov/calaw.html

Chapter I. Special Responsibilities

Farm labor contracting is a unique business with special legal responsibilities. California has imposed these special responsibilities, special licensing requirements and related penalties to preserve the health and safety of workers, to ensure that they are paid the correct wage for their labor, and to protect them from unscrupulous practices.

Although most of the special requirements are covered in other chapters of the Study Guide, requirements that apply to the profession in general are below.

A. The examination

Farm labor contractors are required to take California's farm labor contractor examination every two years. A farm labor contractor who has violated any related law will be required to take the examination the year following the violation, or at the request of the Labor Commissioner (LC 1684(f)).

B. The license

To contract for labor you must:

- Have and show a valid and current California farm labor contractor's license (LC 1683).
- Have and show a valid and current federal farm labor contractor certificate (LC 1684(g); 29 CFR 500.42).
- Be registered with the Agricultural Commissioner in each county that you supply labor (LC 1695(a)(8)).
- Have a minimum of \$25,000 bond posted with the Labor Commissioner (LC 1684(c)).
- Reveal all people that have a financial interest in your contracting business. (LC 1684(a)).
- Each year, enroll and participate in at least eight hours of relevant educational classes approved by the State Labor Commissioner.
- Notify DLSE of any changes related to the business officers, address, legal entity, partnerships, etc.

You may not:

- Sell or transfer any part of the profits of your business unless the Labor Commissioner gives written consent (LC 1698.1).
- Transfer your federal certificate (29 CFR 500.53).

C. Training supervisors

Each crew leader, foreman, or any other person that supervises, directs, or controls any agricultural laborer on your behalf must be given information and training on laws and regulations governing worker safety and health, pesticide safety, and the terms and conditions of employment. You are responsible for supplying the information and the training (LC 1695(a)(9)).

DLSE recommends that you use this Study Guide to help train your supervisors. The special training requirements that apply to pesticide safety are discussed in Chapter III. Pesticide Safety.

The federal government requires that all your field supervisors be licensed as Farm Labor Contractor Employees (FLCE) (29 CFR 500.40) and that they be trained in pesticide safety (40 CFR 170.130). You are responsible for any violations of federal law committed by any FLCE who works for you (29 CFR 500.40).

D. Recruiting workers

You, or any person acting for you, are strictly forbidden from making any false or misleading statements, oral or written, about the terms, conditions, or existence of employment (LC 1696(2)).

If your employees or the grower request it, you must have a written statement (in English and in Spanish) showing the amount of the fee you are receiving from the grower and the workers' rates of pay (LC 1695(a)(5)).

You may not charge a worker any kind of registration fee or employment fee (LC 1698.3) or make any false statement to workers that they have to pay a transportation fee to get a job (LC 1697.1).

You must post your name and farm labor contractor license number at the entrance of your vehicles (LC 1696.2).

You must also post the rate of pay on all your vehicles (LC 1695(a)(7)).

You may not transport workers to a jobsite unless you already have an agreement to supply labor there (LC 1696.6, 1698.3). If you drive workers to a jobsite and there is no work available as promised, you must pay them the agreed-upon rate of pay for all the time traveling to the jobsite, and all the time traveling back (LC 1696.6).

If you have to rent a vehicle, you must rent it for a flat rate. You may not rent vehicles for a percentage of your earnings (LC 1696.4).

If there is a strike or lockout at a place of employment, you must tell your workers about it before you take them there (LC 1696(3)).

You are forbidden from interfering with workers who are organizing a union (LC 1152, 1153).

Before you hire workers, federal regulation requires you to tell them where they will be employed, the wage rates, the kinds of crops they will work on, their work duties, and the expected length of employment.

You must also tell them about any charges for transportation, housing, or other benefits, and whether you will receive a commission for sales from a store owned by the grower (29 CFR 500.75).

Workers must not be required to purchase goods or services solely from a contractor or a grower or any person acting for them (29 CFR 500.75).

Finally, federal regulations require you to post a notice that shows the rights of workers under the federal Migrant and Seasonal Agricultural Protection Act (MSPA) (29 CFR 500.75(c)). The poster is available from the U.S. Department of Labor at www.dol.gov/esa/whd/mspa/.

E. Contracting with growers

Before you can make an agreement to supply labor to a grower, you must show the grower your state farm labor contractor's license (LC 1696.7(a)(1)) and your federal contractor's certificate (29 CFR 500.42).

Farm Labor Contractors must provide a payroll list of all employees who will be working for the grower. The list is on a form supplied by the Labor Commissioner and includes the name, address, telephone number, social security number, and length of time employed with the grower (LC 1695.5). The payroll list is also required under federal regulation (29 CFR 500.60).

You are strictly forbidden from dividing any fees with any person to whom you supply labor, or with any of their employees (LC 1698.8).

F. Grounds for losing your Farm Labor Contractor License

Your license may be revoked for any of the following reasons:

- Violation of any state or federal law governing farm labor contractors, including safety and health, payment of wages, lack of workers' compensation insurance, etc.
- Putting any false information on your application.
- Change of any condition under which the license was issued.
- Allowing any employee to drive a farm labor vehicle without proper license and certification (LC 1690).

In addition, you must promptly pay the entitled individuals any money or other things of value entrusted to you by another person for that purpose (LC 1695(a)(3)).

You must comply with all legal agreements you make as a farm labor contractor (LC 1695(a)(4)).

Farm labor contractors may not knowingly permit persons of bad character, prostitutes, gamblers, drunken persons, etc. to visit his or her premises (LC 1698.6). You may not send directly or indirectly any woman or minor to any house of prostitution or any place used for any immoral purposes, including gambling (LC 1698.4).

You will not be granted a license if you sell or plan to sell liquor on the premises of your business (LC 1685).

Federal law and regulation has similar prohibitions (29 CFR 500.51). Your license may be refused or taken away if you:

- Violate any state law governing farm labor contractors, including safety and health, payment of wages, lack of workers' compensation insurance, etc.
- Give any false information on the application.
- Are not the "real party in interest" on the application. (This means that you may not apply on behalf of another person who will actually be the Farm Labor Contractor.)
- Violate any federal law or regulation governing farm labor contractors, or failed to obey any court judgment obtained by the Secretary of Labor.

- Were convicted in the last five years for violating any state or federal law related to gambling or alcohol in connection with farm labor contracting or a variety of felonies.
- Hire any person who is in this country illegally.

Study Chart for Chapter I: Special Responsibilities

TOPIC	STATE REQUIREMENTS	FEDERAL REQUIREMENTS
The exam	Take exam every two years. If you break any law regulating FLCs, you must take exam the following year or at the request of the commissioner.	No examination required.
The license	Must have California FLC License. Renew each year on birthday. Register each year with the Agricultural Commissioner in counties where you supply labor. You may not transfer interest in FLC business without Labor Commissioner's consent.	May not contract without federal certificate available from the U.S. Department of Labor. Renew each year on date of issuance.
Training supervisors	You must train all your supervisors in safety and health requirements, pesticide safety, and terms and conditions of employment.	Federal regulations require that supervisors be licensed as Farm Labor Contractor Employees (FLCE). Pesticide training required.
Recruiting workers	You may not make any false or misleading statements to workers when recruiting them. Post name, contractor license number, and rates of pay outside vehicle. May not charge an employment fee or registration fee. May not transport workers to jobsite without having jobs for them. If there are no jobs as promised, you must pay workers their regular wage for all travel time. If requested, you must provide to grower and workers a written statement in English and Spanish showing the fee paid by grower and wage rates paid to workers. Must reveal existence of any strike or lockout before hiring workers. Must not interfere with union organizations.	Must tell workers where they will be working, how long, types of crops, work duties, wage rates, and charges for transportation, housing, etc. Must reveal any commission you receive from sales made by grower to workers. Workers may not be required to buy goods and services solely from the contractor, the grower or any person acting for them. Must post a notice of workers' rights under federal laws. (Available from the U.S. Department of Labor.) Must reveal existence of any strike or lockout before hiring workers. Must not interfere with union organizations.
Contracting with growers	Must show your grower your current and valid state farm labor contractor's license. Must provide a payroll list of all employees that will be working for grower. May not divide fees with any person to whom you supply labor, or any of their employees.	Must show your federal certificate to any person you are contracting with. Must supply payroll list upon request.
Grounds for losing your FLC license	Violation of any state or federal law governing farm labor contractors, including safety and health, payment of wages, etc. False information on application. Change in conditions upon which license was originally granted. Failure to pay employees all money and things of value entrusted to you for that purpose. Failure to comply with all legal agreements that you make. May not sell alcohol or liquor on your business premises, send women or minors to any place used for immoral purposes, or permit persons of bad character to frequent your premises.	Violation of any federal law governing farm labor contractors. Failure to obey any court judgment obtained by the Secretary of Labor. False information on application. Change in conditions upon which certificate was originally granted. Applicant is not the real party in interest. Hiring any person who is in the country illegally. Conviction within the previous five years for violating any state or federal law related to gambling or alcohol in connection with FLC activities, or various felonies.

Chapter II. Safety & Health

Providing safe working conditions and protecting the health of your workers is one of the most important jobs you will have as a farm labor contractor. More agencies enforce health and safety standards than any other area affecting farm labor contractors. Local health officers, County Agricultural Commissioners, the Department of Health Services, DLSE, the Department of Pesticide Regulation, and the Division of Occupational Safety and Health (also called Cal/OSHA or DOSH) enforce health and safety standards.

Penalties can be very high. For example, if you violate just one Cal/OSHA regulation for field sanitation, the minimum fine is \$750, and failure to provide potable drinking water can bring a penalty of up to \$ 25,000. With so many agencies enforcing the standards, you can be assessed large penalties when you do not follow the standards. These agencies report violators of health and safety standards to the state Employment Development Department (EDD) which in turn is forbidden by law from referring workers to contractors who violate the standards (HSC 5474.30). It is in your best interest to follow all the health and safety rules contained in this chapter.

A. Field Sanitation

1. Handwashing and Toilet Facilities

You must provide a toilet and handwashing facility for each sex and each 20 employees or fraction thereof. That means, for example, that for 20 and fewer male and female employees, you must have one facility for men and one for women; for 21 to 40 employees, you must have two facilities; for 41 to 60 employees, you must have three facilities and so on (8 CCR 3457(c)(2)(A)). Again, you must have separate facilities for men and women. When you employ fewer than five employees, you do not need to supply separate facilities if the room has at least one toilet and can be locked from the inside (8CCR 3457(c)(2)(A)).

The rules for handwashing and toilet facilities apply whenever you employ five or more workers for two or more hours in hand labor (HSC 5474.22 and .23; 8 CCR 3457). When you employ less than five workers for less than two hours, you must supply transportation to and from toilet and handwashing facilities if there are none in the field (8 CCR 3457(c)).

The handwashing facility must get fresh air, and the water tank must hold at least 15 gallons (8 CCR 3457(c)(2)(B)(5); 17 CCR 8008(c)). The water must be pure and refilled as necessary. You must post signs that say the water is only for handwashing. The facility must be stocked with soap and single-use towels and kept clean (8 CCR 3457(c)(3)(G); HSC 5474.26; 17 CCR 8008). Water may drain from the facility but must not cause a nuisance or any contamination (8 CCR 3457(c)(3)(H)).

All toilet facilities must be screened to keep flies and vermin out. They must get fresh air, have self-closing doors that lock from the inside, and be private. The facility must be at least eight square feet (ten if there is a urinal). Chemical toilet waste water must drain into a tank of at least 40 gallons constructed to prevent contamination of the occupant, field or road (8 CCR 3457(c)(2)(B); HSC 5474.25; 17 CCR 8004).

Chemical toilet tanks must be drained into a sewer or approved septic tank. When pit toilets are filled to within two feet of the surface, cover with two feet of compact

dirt (8 CCR 3457(c)(3)(E) and (F); 17 CCR 8007. 8009). Contact the local health services agency if you have any question about proper disposal of waste.

The facilities must always be in working order, clean, and stocked with odor control chemicals and toilet paper in a proper holder at all times. You must also maintain written records of service and maintenance of the facilities for the preceding two years (8 CCR 3457(c)(3)(B),(c),(D); 17 CCR 8006. 8010.8011).

Finally, both the toilet and handwashing facilities must be built of rigid materials. The inside surface must be of a light color, smooth and easily cleaned. The handwashing and toilet facilities must be close together and located within a quarter mile or a five-minute walk from the worksite, whichever is shorter. If the terrain makes this too difficult, the facility must be as close to the workers as a vehicle can bring it (8 CCR 3457(c)(2)(B); HSC 5474.28; 17 CCR 8004.8008).

2. Instruction and Use of Facilities

You must tell the employees where the facilities are located and allow each employee to use the facilities throughout the workday (8 CCR 3457(c)(4). In addition, you must tell your employees about the importance of good hygiene so you can help to reduce hazards arising from exposure to heat, disease, retention of bodily waste, and chemicals, Tell your employees to use the facilities, drink water often, urinate often, wash hands before and after using the toilet and wash hands before eating or smoking.

3. Potable Drinking Water

You must provide pure, cool, potable drinking water near where your employees are working. They must be able to drink the water any time they wish from the start to the end of the shift. The water must be dispensed in single-use cups or by fountains. Dippers and common drinking cups are prohibited. The water containers must maintain the quality of the water and have a faucet or fountain to draw the water (8 CCR 3457(c)(1)(A)(B)(C); LC 2441). The water containers have to be cleaned regularly, refilled as necessary, and covered to keep the water clean (8 CCR 3457(c)(3)(A)). You must provide drinking water regardless of the number of workers or the length of time they are employed.

B. Heat Illness Prevention (8 CCR 3395)

Excessive heat exposure can lead to serious illness or death. The Cal/OSHA Heat Illness Prevention regulation requires that:

- You provide ready access to clean, cool potable drinking water (as described above) at all times to employees. At least one quart per worker per hour for the entire work shift must be provided before the shift begins. Employers may begin the shift with smaller quantities of water if they have effective procedures for replenishment during the shift as needed to allow employees to drink one quart or more per hour. The frequent drinking of water is to be encouraged (8 CCR 3395 (c)).
- Access to shade shall be permitted at all times, which means shade structures need to be placed and opened near the workers at the start of the shift. Employees suffering from heat illness or who request to take a break for relief from the heat are to be provided access to an area with shade that is either open to the air or provided with ventilation or cooling for a period of no less than five minutes (8 CCR 3395(d)).

- Training in the following topics shall be provided to all supervisory and non-supervisory employees before being assigned to work outdoors (8 CCR 3395(e)):
 1. The environmental and personal risk factors for heat illness;
 2. The employer's procedures for complying with the requirements of this standard;
 3. The importance of frequent consumption of small quantities of water, up to 4 cups per hour, when the work environment is hot and employees are likely to be sweating more than usual in the performance of their duties;
 4. The importance of acclimatization;
 5. The different types of heat illness and the common signs and symptoms of heat illness;
 6. The importance to employees of immediately reporting to the employer, directly or through the employee's supervisor, symptoms or signs of heat illness in themselves, or in co-workers;
 7. The employer's procedures for responding to symptoms of possible heat illness, including how emergency medical services will be provided should they become necessary;
 8. The employer's procedures for contacting emergency medical services, and if necessary, for transporting employees to a point where they can be reached by an emergency medical service provider; and
 9. The employer's procedures for ensuring that, in the event of an emergency, clear and precise direction to the work site can and will be provided as needed to emergency responders.
- Procedures must be in writing. The procedures you will take to meet requirements must be in writing and must be made available to employees and Cal/OSHA representatives.
- Supervisors must be trained. In addition to the employee training described above, all foremen and other supervisors, before being assigned to supervise employees who work in the heat, must also receive training in how to implement the company's written heat illness prevention procedures, and what to do when an employee exhibits symptoms of possible heat illness, including emergency response procedures.

C. Field Safety

1. Medical Requirements

First aid kits must be maintained at the farm headquarters and/or on transportation buses. At remote locations, provisions must be made in advance for prompt medical attention in case of serious injuries. This may be accomplished by on-the-site facilities or proper equipment for prompt transportation of the injured person to a physician, or communication system for contacting a doctor, or combinations of these that will avoid unnecessary delay in treatment. There shall be at least 1 employee with training for the administering of emergency first aid for every 20 employees at any remote location. (8 CCR 3439).

2. Tools

Metal poles or any pole that can conduct electricity may not be used for fruit picking, nut knocking, etc. Conductive tools (metal ladders, irrigation pipe, etc.) should not be used where there is a possible exposure to high-voltage lines until the employees have been trained in the hazards associated with this exposure. Supervisors must inspect the work area in orchards and other planted areas to determine if there is a possible exposure to high-voltage lines, and caution employees about the hazard (8 CCR §3455).

Short-handled tools (less than four feet long) used for weeding, thinning, or hot-capping may not be used in a stooped, kneeling or squatting position. Long-handled tools may not be used as short-handled tools (8 CCR 3456). Vegetable trimming saws must have the unused portion of the blade enclosed with a barrier installed to prevent employees from reaching the saw blades (8 CCR 3447).

Where ladders are used in agricultural operations, they shall be maintained in good working order. Ladders shall be placed so that they provide a secure footing. Ladders shall not be placed on boxes, barrels or other unstable bases to obtain additional height (8CCR §3278).

3. Equipment

Tractors must have guards covering all moving parts such as gears and chains that workers might get their bodies or their clothing caught in. The tractor drivetrains (Power Takeoff or PTO) must be covered and the tractor must have safety decals warning that the drive train must be covered. Rear wheels on tractors must have fenders or be 64 inches apart. Parts which continue to move after the power is shut off must have safety warning signs, and if the tractor was made after 6-1-77, it must make a warning sound until the parts stop moving.

Tractors must have a positive parking brake that cannot be shaken loose by the tractor's vibration (8 CCR 3440). Tractors made after 1976 must also have a roll-over protection structure (ROPS) to protect the driver in case the tractor overturns. The ROPS will also protect the driver from falling objects. ROPS are not required for low-profile tractors used in buildings, greenhouses and orchards (8 CCR 3651).

Power-driven choppers, cutters and grinders must be guarded to prevent accidental contact. Machines with feed rolls must have a safety bar or trapeze bar to stop the machine. Rotary choppers with horizontal blades must have shields extending below the lowest blade and have guards front and rear (8 CCR 3445). The spinner in horizontal rotary spreaders must be guarded by a rail or bar to prevent possible injury. Access doors on all equipment must be marked with warning signs (8 CCR 3442).

Screw conveyors seven feet or less above the work level must be guarded. Augers must have grating guards or solid baffle covers. Baffle covers can be no wider than 1 1/2 inches or closer than 3 1/2 inches to the rotating conveyor. The largest opening in the grating guards for inserting materials may not be larger than 4 3/4 inches or 10 square inches. The opening may not be closer than 2 1/2 inches to the rotating conveyor (8 CCR 3446).

Portable sack loaders, augers, elevators or drag conveyors must be guarded and may have only one starting control which must be readily accessed by the operator (8 CCR 3446).

Permanent pools, ponds, water tanks, or reservoirs that are four or more feet deep must have a ladder if the shape of the structure makes it difficult to get out (8 CCR 3448).

In silos, sweep arms on the top surface must be guarded (8 CCR 3440).

4. Safe Operation of Machinery

It is your responsibility to instruct the employees in the safe operation and servicing of all equipment that the employees will use. This instruction must occur before they first use the machine and then once a year after that. At a minimum, you must tell them the following: Keep all guards in place while the machine is on; allow no unnecessary riders; stop engine, cut electrical power and wait for all parts to stop before working in or on the machine; make sure everyone stands clear of the machine before starting and operating it; watch for high voltage wires (8 CCR 3441 (a)). Never let any equipment or material get closer than 10 feet from a high voltage power line. If you have to work closer than 10 feet, ask the power company to shut off power to the lines (8 CCR 2946(b)).

Where employees are required to service, repair, clear or unjam machines, proper lock-out procedures must be in place and the employees must be trained in those procedures. The procedures must address the control of all sources of energy in the machine and how it will be controlled to prevent inadvertent movement (blocking, bleeding pressure, locking, etc.) (8CCR §3314).

Any farm machine that moves under its own power must either have an operator at the main controls or have remote controls at the worker's station. If the machine moves less than two miles per hour with ground furrow steering, the remote controls only have to have brakes that will immediately stop the vehicle. The worker must have clear view ahead of nearby employees (8 CCR 3441 (b)).

Employees riding on towed farm equipment must be able to signal the driver or be able to stop the towed equipment in case of emergency (8 CCR 3441)

Employees must be able to safely reach the top of the load for loading or unloading high loads on vehicles (8 CCR 3441 (h)).

Farm vehicles shall be refueled in a safe manner: the engine must be off while the vehicle is being refueled, any spills must be cleaned up or evaporated before re-starting the engine, fuel caps shall be replaced before re-starting the engine; if refueling is done with portable containers, only approved containers with self-closing lids and spark arresters shall be used, and metal-to-metal contact is maintained between the fuel tank and the container (8CCR 3319).

5. Safety Devices

You must tell your employees to wear the protective equipment that is to protect their head, eyes, face, body, hands and feet from any hazards arising from the employee's job (8 CCR 3380 through 3385). You must make sure the employees actually wear the protection and that they do not wear wrist watches, rings or other jewelry near moving machinery or near any electrical equipment (8 CCR 3386).

6. Sheepshearing

Flooring made of canvas or similar material must be stretched tight and pegged at four-foot intervals around the outer edge of the flooring. Hobbles must be installed 1/3 of the way down of each hanger arm and secured to the main hanger. The

leather thongs must pass through an eyelet on the turn-out side of the shearing floor. Each thong must have a weight attached that will pull the clippers back safely if they are dropped or kicked free. The catch and turn-out pens must have barriers that will prevent sheep from bothering the shearer (8 CCR 3454).

7. Pesticide Safety

See Chapter III. Pesticide Safety

D. Injury and Illness Prevention Program

California requires all employers to have a written Injury and Illness Prevention Program (IIPP) (8 CCR 3203). Farm labor contractors are no exception. The program and associated records must be presented to Cal/OSHA inspectors upon request.

Cal/OSHA's "Guide to Developing Your Workplace Injury and Illness Prevention Program," a sample program, and forms are available at www.dir.ca.gov/dosh/PubOrder.asp.

In addition, the Cal/OSHA Consultation Services provides free assistance to employers to help them develop a good program. The Consultation Service is entirely separate from Cal/OSHA's enforcement branch. If you request the assistance of the Consultation Service, you do not risk being reported to enforcement if you are not currently in compliance with the IIPP requirements. However, when a Cal/OSHA consultant identifies an imminent or serious hazard, you must cooperate with the consultant to eliminate the hazard in a reasonable period of time. If you refuse to correct the hazard, then you will be reported to the enforcement unit.

For the Cal/OSHA Consultation
Area Office near you, go to:
[www.dir.ca.gov/dosh/consultation
_offices.html](http://www.dir.ca.gov/dosh/consultation_offices.html)

Briefly, each IIPP must include:

- Identification of the person(s) responsible for implementing the program.
- A system of training, retraining, rewards and disciplinary action that makes sure employees follow the safety rules.
- A system for communication with your employees about safety and health in a manner/language that workers can understand and that encourages them to report hazards without fear of punishment. The system should include meetings, labor-management committees, training programs, postings, written communications, and a way for employees to report hazards without giving their name. (Employers with 10 or fewer employees do not have to have written communications.)
- A system for identifying hazards that includes the first evaluation of the workplace, regular inspections, evaluation of new procedures, processes, equipment, substances, and any new hazards brought to your attention.
- Investigations of occupational injury or illness.
- A procedure for quickly correcting unhealthy or unsafe working conditions.
- Safety and health training for employees and supervisors when the program first starts, for new employees, for employees doing new tasks, and for everyone when new substances, processes, procedures, or equipment are introduced, or when new hazards are recognized.
- Records showing regular inspections, action taken to correct the hazards, and the name of the inspector. Records must be kept for three years. (Employers with less than 10 employees must keep records only until the hazard is corrected.)

- Records showing safety and health training that include the employee's name, the instructor's name, the training date, and type of training. Records must be kept for three years. (Employers with less than 10 employees must keep a simple log of instructions given to employees.) You do not need to keep the training records for employees who worked less than one year, but you must give them to the employee when he or she leaves.

E. Workers' Rights

Workers may file complaints with the state about unsafe working conditions. The state will investigate the complaint, and the employee's name is not revealed (LC 6309). Workers may talk to inspectors during a safety inspection (LC 6314) and they must be told about any job hazards. Workers may refuse to work in hazardous conditions without being fired (LC 6311). You may not fire or punish workers who file safety complaints or refuse to work in hazardous conditions (LC 6310, 6312). Workers who are fired or punished may file a complaint with the Labor Commissioner (LC 6312). Complaints to the Labor Commissioner will be investigated and may ultimately be subject to a formal hearing (LC 98.7). Workers who could be harmed by pesticides also have all these rights.

F. Required Postings

You are required to post the publications below, available at www.dir.ca.gov/dosh/PubOrder.asp:

- "Safety and Health Protection on the Job" lists the basic employer and employee rights and responsibilities as they relate to the safety and health rules. It explains violations and lists branch offices (8 CCR 340).
- "Annual Summary of Work-Related Injuries and Illnesses" (Cal/OSHA Form 300A) is a log of all the injuries your employees have received during the year. It must be posted once a year in February (8 CCR 14301).

G. Reporting Injuries and Deaths

For the Cal/OSHA Enforcement District Office near you, go to:

www.dir.ca.gov/dosh/DistrictOffices.htm

If an employee is killed or seriously injured on the job, you must report the incident immediately by phone or by fax to the nearest Cal/OSHA office (8 CCR 342(0)). All injuries or work-related illness, regardless of severity, must also be reported to your workers' compensation insurance company and the California Division of Labor Statistics and Research within five days (8 CCR 14001).

DIR Division of Labor Statistics & Research
455 Golden Gate Ave., 9th Flr
San Francisco, CA 94102
415-703-4780
Mailing:
P.O.Box 420603
San Francisco, CA 94142-0603

Study Chart for Chapter II: Safety & Health

Safety & Health Standards

Many agencies enforce California safety and health standards, including the Labor Commissioner, the County Agricultural Commissioner, local health officials, the Department of Health Services, the Department of Food and Agriculture, and the Division of Occupational Safety and Health (also called Cal/OSHA or DOSH).

These agencies report violators to the Employment Development Department (EDD) which is forbidden by law to refer workers to contractors who violate these standards. These standards apply when employing five or more workers for two or more hours. The minimum penalty for violating a single Cal/OSHA regulation governing field sanitation is \$750.

Field Sanitation

You must provide pure, cool drinking water dispensed by a fountain or in single-use cups from clean, covered container that maintain water quality. Dippers and common-use cups are strictly prohibited. Water must be located nearby, and employees must be able to drink the water any time they wish.

When you employ five or more workers for two or more hours, you must provide a toilet and handwashing facility for every 20 employees or fraction thereof. If you have 21 employees, you must have 2 toilets and 2 handwashing facilities. When employing fewer than 5 workers for less than 2 hours, you must transport workers to nearby facilities.

Handwashing facilities must hold at least 15 gallons of pure, clean water, must be refilled regularly, and must be kept sanitary, ventilated, and stocked with soap and single-use towels. Water that does not cause a nuisance or any contamination may drain from the facility. Post notice that water is for handwashing only, not drinking.

Separate toilet facilities must be provided for men and women if there are five or more employees. All facilities must be ventilated, have self-closing doors lockable from the inside, private, and screened to keep out flies and vermin. Must be kept sanitary, operational, and stocked with odor control chemicals and toilet paper in a proper holder. Waste water from chemical toilets must be emptied into a sewer or approved septic tank. Pit toilets that are filled to within 2 feet of the surface must be covered with 2 feet of compacted dirt. Records of service and maintenance to the facilities must be maintained and kept two years.

Facilities must be made of rigid, smooth, and easily cleaned material of a light color.

Facilities must be within a ¼ mile or 5-minute walk, or, in rough terrain, as close as a vehicle can bring it.

You must promote good health practices among your employees to reduce hazards arising from that exposure, communicable diseases, chemical residues, and retention of urine. Tell your employees to wash their hands before and after using the toilet and before eating and smoking. Tell them to drink water often and urinate often.

Heat Illness Prevention

Employers of outdoor workers are required to:

Train all employees and supervisors about heat illness prevention.

Provide enough fresh water so that each employee can drink at least 1 quart per hour, and encourage them to do so.

Provide access to shade for at least 5 minutes of rest when an employee believes he or she needs a preventative recovery period. They should not wait until they feel sick to do so.

Develop and implement written procedures for complying with the heat illness prevention standard.

Field Safety

Arrange emergency medical care in advance. Employees or foremen must know the name and location of the medical facility. In remote locations, provide on-site facilities, prompt transportation, or a reliable way to call a physician. One person of every 20 employees must have first aid training, and you must provide a first aid kit.

Metal poles or poles that conduct electricity may NOT be used for fruit picking, nut knocking, etc. Short-handed tools, such as hoes, that must be used in a stooped, kneeling, or squatting position are prohibited. Long-handed tools may not be used as short-handed tools.

The unused portion of vegetable saw blades must be enclosed.

Power-driven machines must have protective guards in place while being used.

Tractors must have roll-over protection for driver; moving parts and drive trains must be covered.

Access doors must be closed when the machine is operating, and clearly marked with warning signs.

Parts that rotate after power is shut off must be marked with warning signs or make a warning sound.

You must instruct your employees about the safe operation of equipment when they first use it, and once a year after that. Tell employees to keep guards in place, to shut off the machine and wait for all parts to stop before working on the machine; to stand clear when the machine is started; and not work within 10 feet of high-voltage wires.

You must tell your employees to—and make sure that they wear the personal safety equipment necessary to protect the employee's head, eyes, face, body hands, and feet from any job hazards.

Employees riding on towed farm equipment must be able to stop the towed equipment or signal the driver in an emergency. Workers must have safe access to top of a high load.

**Injury & Illness
Prevention Program
(IIPP)**

All California employers must have a written Injury and Illness Prevention Program. The IIPP and associated records must be presented to Cal/OSHA inspectors upon request. Cal/OSHA supplies written materials and provides free Consultation Services to help employers develop an IIPP. Cal/OSHA consultants do not report or cite employers who are not in compliance. However, if a Cal/OSHA consultant

identifies an imminent, serious hazard and an employer refuses to cooperate with the consultant to eliminate the hazard in a reasonable period of time, then the employer will be reported to a Cal/OSHA investigator.

The IIPP must include:

- The name of the person who implements the program.
- A system that ensures that the employees comply with the program.
- A system to communicate with employees about hazards, including reporting hazards without fear of punishment.
- Investigations of occupational injury or illness.
- A procedure for timely correction of hazards.
- Safety and health trainings for employees and supervisors.
- A recordkeeping system showing scheduled inspections, correction of hazards, and training. Records must be kept three years.

Workers' Rights

You may not fire or punish a worker who files a safety complaint or refuses to work under hazardous conditions.

Workers may file confidential complaints and may talk with inspectors during inspections.

Any worker who is punished because of a safety issue may file a complaint with the Labor Commissioner. The complaint will be investigated and may lead to a formal hearing.

Workers must be informed of job hazards.

Postings

"Safety and Health Protection on the Job" lists rights and responsibilities of workers and employers.

"Annual Summary of Work-Related Injuries and Illnesses" lists all the injuries your employees have received during a year. Posted once a year, February through April.

Injuries and Death

Report job injuries and death to Cal/OSHA immediately.

Report all injuries or work-related illness to your workers' compensation insurer and to the DIR Division of Labor Statistics and Research within 5 days.

Chapter III.

Pesticide Safety

IMPORTANT NOTICE

The Department of Pesticide Regulation (CDPR) website, www.cdpr.ca.gov, has the latest information about pesticides and also provides a link to contact information for local County Agricultural Commissioners. These agencies will do their best to inform you when new regulations take effect, but it is your responsibility to obey all current laws and regulations—protect yourself by staying informed.

Many agricultural pesticides are extremely toxic and hazardous to you and to your workers. It is very important that you know the basic safety requirements outlined in this chapter. The CDPR regulates the use of pesticides (FAC 12981). The CDPR and the local County Agricultural Commissioners enforce the regulations. Violation of the regulations carry both civil and criminal penalties. The local County Agricultural Commissioner is the best first source of information about pesticides and the safety regulations you must follow to protect yourself and your workers from dangerous pesticides. For a list of County Agricultural Commissioners, visit www.cdpr.ca.gov/exec/county/county_contacts.html

This chapter is divided into two parts—the first part tells you safety rules you must follow to protect workers who do ordinary field work, but do not work with pesticides. The second part tells you the safety rules you must follow for workers who actually handle pesticides. If you plan to hire workers to mix, load, apply, transport, or in any way handle pesticides, you must have a special license. The licensing requirements are outlined in the second part.

A. Safety Requirements for Fieldworkers Who DO NOT Apply or Handle Pesticides

As an employer, you are responsible for the safety of your employees (3CCR 6702). You must prepare in advance for your workers' safety by obeying safety intervals, training employees, providing and requiring employees to wear protective clothing, providing information to employees about pesticides. Each of these requirements are discussed below.

1. Fieldworkers Must Be Trained in Pesticide Safety

The Department of Pesticide Regulation (DPR) requires all farm labor contractors to make sure that all their fieldworkers—including those who do not apply or handle pesticides in any way—have been trained in basic pesticide safety sometime within the previous five years (3CCR 6764). The information must be presented to the workers in a way that is easy to understand. The training materials may be written or audiovisual, but the trainer must respond to fieldworkers' questions (3CCR 6764). The California Department of Pesticide Regulation (DPR) is cooperating with the federal government in this new program while developing new state regulations that will be the same as federal regulations.

List of County Agricultural
Commissioners

www.cdfa.ca.gov/exec/county/contacty_contacts.html

California Department of Pesticide
Regulation

www.cdpr.ca.gov

CDPR Worker Protection
Information

www.cdpr.ca.gov/docs/license/workprot.htm

This training requirement must include such topics as the health effects of exposure to pesticides, symptoms of pesticide poisoning, ways that pesticides enter the body, emergency first aid and decontamination procedures, danger of pesticide residue on clothing and containers, as well as information about field entry restrictions, posting, and other basic information discussed in more detail later in this chapter (3CCR 6764).

Your fieldworkers must be trained by a qualified trainer. Qualified trainers include (a) certified private applicators, (b) qualified applicators with a certificate, (c) persons who have passed a written examination and hold a valid “personal qualification” license or certificate issued by the Department of Pesticide Regulation (e.g. an apprentice pilot, or designated agent), or (d) persons who complete a DPR-approved “Instructor Training Program” course. An Instructor Training Program is the easiest way to become a qualified trainer. Contact the Licensing and Certification Program at DPR for information about this program.

You must be able to prove to state and federal inspectors that your fieldworkers are properly trained, but you do not have to keep formal records of the training. One way to document training is by participating in the Voluntary Training Verification Program. When you participate in this program, a qualified trainer will provide to your trained fieldworkers training verification cards proving that they have been properly trained. The fieldworkers then keep the cards as their personal property, and they can be shown to inspectors as proof that you have complied with the training requirements. As part of the Verification Program, you also agree to keep certain records on the persons trained, who performed the training, and when and where the training was given.

If you do not participate in the Verification Program, state and federal officials strongly recommend that you keep, for five years, records of all employees who received the training. The records should include the name and signature of the trainer and each trainee, the date of the training, and the address where the training was given.

2. Warnings

Before you enter a field, the operator of a farm must tell you if the field has been treated with pesticides, the name of the pesticide, the date it was applied, the safety interval, and safety precautions you must make (3 CCR 6618). “Safety intervals” are explained in topic 5, below. Once a grower gives you this information, you are then required—and are solely responsible—to tell it to your employees and make certain that they understand it (3 CCR 6618).

3. Workers Must be Told About Pesticides

If there is any possibility that your workers might be exposed to pesticides, you must make a written “hazard communication program” available to them (3 CCR 6761). That means that before entering a treated field, you must supply your workers with a leaflet called the “Pesticide Safety Information Series (PSIS) A-9.” The PSIS A-9 leaflets are available in English, Spanish and Punjabi at www.cdpr.ca.gov/docs/whs/psisenglish.htm. You must read the PSIS A-9 to your workers in a language they understand.

In addition to the PSIS A-9, you must make available to your workers, their doctors, or their representatives, upon request, the pesticide records kept by the

operator of the property, which include: a) the list of the pesticides applied to the field in the last two years; b) additional PSIS leaflets (there are many others besides the A-9) that describe various pesticides, proper use, related symptoms, and recommended medical treatment; and c) Material Safety Data Sheets (MSDS), which are technical descriptions of a pesticide. The operator of the property must tell you where these records are kept.

You may have to follow some additional procedures to obtain information under the hazard communication program. Those procedures are contained in 3 CCR 6761. (See www.cdpr.ca.gov/docs/legbills/calcode/030303.htm#a6761)

4. Preparations You Must Make Before Allowing Fieldworkers to Enter a Field

Before you enter a field in which any of your employees might be exposed to pesticides, you must:

- Plan emergency medical care by selecting in advance a medical facility that will provide the emergency care. The field supervisor or employees must know the name and location of the medical facility (3 CCR 6766). A good way to provide this information is to post the name and telephone number of the facility.
- Provide handwashing facilities for every 20 employees (3 CCR 6768; 8 CCR 3457 (c) (2) (A)). Requirements for handwashing facilities are explained in Chapter II. Safety & Health.
- Know—and teach your field supervisor and employees—the poisoning symptoms of the very toxic organophosphate and carbamate pesticides (3 CCR 6764). Those symptoms include: headache, nausea, vomiting, cramps, weakness, blurred vision, pin-point pupils, breathing difficulties, nervousness, sweating/clammy skin, watering eyes, drooling or frothing mouth, muscle spasms, skin rash, coma. PSIS B-2 and B-4 leaflets have additional details about these pesticides. The leaflets are available from the local County Agricultural Commissioner.
- Immediately take employees who may show symptoms of pesticide poisoning to see a physician (3 CCR 6766). If employees come in direct contact with pesticides, you must tell them to wash immediately and if necessary take them directly to a physician. Basic first aid procedures for pesticide poisoning are explained in PSIS A-4 (see information at left). Make sure that you and your field supervisor are familiar with the procedures explained in it.

5. Restricted Entry Interval (REI)

A “restricted entry interval,” is the amount of time that must pass before people can safely enter a treated field without special protective clothing. Never enter any treated field for any reason until the restricted entry interval has expired (3 CCR 6770). (“Field” means any area upon which a crop may be grown, including, for example, greenhouses.)

Restricted entry intervals are indicated on the label of the pesticide and in state regulation¹ but the operator of the property should give you this information (3 CCR 6618). If you are not sure about the proper restricted entry interval it is best to ask the local County Agricultural Commissioner. Remember, you—the employer—are responsible for providing a safe workplace.

Some fields which have been treated with certain pesticides are required to be posted with warning signs written in English and Spanish and displaying a skull and crossbones symbol. For example, all fields which have been treated with pesticides that have at least a seven-day restricted entry interval must be posted. Postings are also required for all toxic pesticides that have only a two-day safety interval when applied to broccoli, cauliflower, celery, flowers, lettuce, ornamentals, strawberries, fresh-market tomatoes, grapes, nectarines, peaches, plums and prunes (3 CCR 6776). Only the operators of the property or their agents may post and remove the warning sign (8 CCR 6776).

Never assume that because a field is not posted it is safe to enter. There are many circumstances in which a restricted entry interval is in effect and the fields are not required to be posted. If you are not certain that a field is safe to enter, do not allow your employees to begin work. You must find out if a field is safe to enter by contacting the grower, a Pest Control Organizer (PCO), a Pest Control Advisor (PCA), or the County Agricultural Commissioner.

6. Restricted Entry Intervals and Early Entry Requirements

Under certain circumstances, workers may enter a treated field during a restricted entry interval if they follow special precautions and wear personal protective equipment. The circumstances that allow workers to enter a treated field during a restricted entry interval include, for example, operating machinery as long as there is no contact between the operator and anything in the treated area that has been contacted by the pesticide applied.

Don't try to figure out these special circumstances for yourself. The operator of the property shall inform you about these restrictions before you enter a treated field. If you have any doubt about the restricted entry interval, safety precautions, or the proper protective clothing, call your local County Agricultural Commissioner, give them the name of the pesticide, the date it was applied, and ask them what kind of work you can let your employees do and what kind of preparations you must take.

When you know what kind of work your employees may perform, you must supply any required protective clothing and train them in safe work procedures. You must also tell them what kind of pesticide was applied to the field, where they will be working, that there is a restricted entry interval in effect, and that they should shower with warm water and soap as soon as possible after the end of the work shift (3CCR 6771).

¹ State regulations often have a longer restricted entry interval than the pesticide label. The state restricted entry intervals are listed in 3 CCR 6772, but regulations can change: another reason to contact the local County Agricultural Commissioner if you have any doubts at all about restricted entry intervals.

**B. Safety Requirements
for Workers Who Apply
or Handle Pesticides**

It is illegal to apply agricultural pesticides unless you are licensed to do so by the California Department of Pesticide Regulation (FAC 11701). If your employees will mix, load, or apply pesticides in the course of their work, you must have an agricultural pest control business license (FAC 11701). You may get the license from the Department of Pesticide Regulation by showing that you are personally and financially qualified for the license (FAC 11702). Applications are available from the local County Agricultural Commissioner.

In addition to the agricultural pest control business license, either you or your supervisor must also be licensed as a “qualified applicator” (FAC 11702). The qualified applicator’s license is issued by the Department of Pesticide Regulation following an examination that tests the applicant’s knowledge of pesticide laws and regulations (FAC 12201, 12203). If your agricultural pesticide business will have more than one office, each office must be licensed and have a supervisor with a qualified applicator’s license (FAC 11701.5).

You must also be registered with the local County Agricultural Commissioner (FAC 11732). County registration of your pesticide business is in addition to your county registration as a farm labor contractor. If you want to know more about the requirements you must meet to be in the agricultural pest control business, contact your local County Agricultural Commissioner.

Once you are properly licensed and registered, you must follow all the worker safety regulations for employees who handle pesticides (3CCR 6700-6746). These regulations are summarized in PSIS A-8, available at www.cdpr.ca.gov/docs/whs/psisenglish.htm.

You must also have a “hazard communication program” for workers who handle pesticides, and you must post the PSIS A-8 leaflet at the worksite (3 CCR 6723). Note: The PSIS A-8 leaflet is different from the leaflet you give to fieldworkers who do not handle pesticides. Fieldworkers who do not handle pesticides must receive the PSIS A-9.

Pesticide handling must be included in your Injury and Illness Prevention Program (IIPP). The IIPP is a written plan that you must develop and have available for inspectors. The IIPP is explained fully in Chapter II. Safety & Health.

Finally, you must keep records of the pesticides you apply (FAC 11733; 3 CCR 6723, 6624) and submit written reports to the County Agricultural Commissioner in the county where the pesticides were applied (3CCR 6626).

Study Chart for Chapter III: Pesticide Safety

Enforcement	The federal government and the Department of Pesticide Regulation (DPR) make the rules for pesticide safety. The regulations are enforced by DPR and the local County Agricultural Commissioner. Violation of the regulations carry both civil and criminal penalties.
Field Worker Training	All of your fieldworkers—even those who do not apply or handle pesticides—must be trained in basic pesticide safety by a qualified trainer. You are responsible for their training and must prove to state and federal inspectors that your workers have been properly trained.
Warnings	If a field has been treated with pesticides, the operator of the property must tell you the name of the pesticide, the date it was applied, the safety interval, and safety precautions. You must then tell the employees this information and make sure they understand it.
Telling Workers	<p>You must make the Pesticide Safety Information Series (PSIS) A-8 and A-9 leaflets available to the appropriate employees, depending on whether they handle or do not handle pesticides. The leaflets describe their rights and access to information about the pesticides that they may be exposed to.</p> <p>The operator of the property shall keep records about pesticide applications, tell you where the records are kept, and make them available to workers, their physicians, or representatives upon request.</p>
Advance Preparation	<p>You must select an emergency medical care facility in advance. The field supervisor or employees must know the name and location of the medical facility.</p> <p>Organophosphate and carbamate pesticides are very toxic. You and your field supervisor must know the poisoning symptoms: headache, nausea, vomiting, cramps, weakness, blurred vision, pin-point pupils, breathing difficulties, nervousness, sweaty/clammy skin, watering eyes, drooling or frothing mouth, muscles spasms, skin rash, and/or coma.</p> <p>If a worker shows signs of pesticide poisoning, he or she must be taken to a physician immediately.</p> <p>If a worker comes in direct contact with a pesticide, he or she must wash thoroughly and if necessary be taken directly to a physician.</p> <p>Provide the handwashing facilities described in Chapter II, Safety & Health.</p>
Restricted Entry	<p>Never enter a treated field until the restricted entry interval has expired.</p> <p>A restricted entry interval is the amount of time that must pass before a worker can enter a treated field without special protective clothing. Restricted entry intervals vary according to the type of pesticide and the type of crop, and may be longer than the drying or settling period.</p> <p>The operator of the property must post warning signs on fields treated with certain types of pesticides. However, there are many circumstances in which a restricted entry interval is in effect and the fields are not required to be posted. Warning signs may be removed only by the operator of the property.</p> <p>Never assume that a non-posted field is safe to enter. You are responsible for keeping your field workers out of a field that has a restricted entry interval in effect, whether or the not field is posted. If you are not certain that a field is safe to enter, do not allow your employees to begin work.</p> <p>To find out if a restricted entry interval is in effect ask the grower or the County Agricultural Commissioner.</p> <p>Certain types of work, such as irrigation, may be performed during a restricted entry interval. If work is permitted, you must provide protective clothing and teach employees safe work practices. With most pesticides, workers shall not pick, harvest, or tend treated plants during a restricted entry interval. Contact the County Agricultural Commissioner about work permitted during restricted entry intervals</p>
Licenses	<p>If your employees mix, load, or apply pesticides, you must have a pest control business license issued by the Department of Pesticide Regulation. Your pest control business must also be registered with the County Agricultural Commissioner where you plan to engage in pesticide work for hire. The business license is not valid unless you or your supervisor have a qualified applicator's license issued by the Department of Pesticide Regulation and meet the financial responsibilities requirements.</p> <p>You must post the publication, PSIS A-8, Safety Rules for Pesticide Handlers on Farms, for your employees who handle pesticides; teach your employees about pesticides and work procedures; and supply any required protective clothing and equipment.</p> <p>Make pesticide handling part of your Injury and Illness Prevention Program (IIPP). (See Chapter II. Safety & Health)</p>

Chapter IV. Wages

The California minimum wage and overtime rates are set by the Industrial Welfare Commission (IWC). The Commission issues Orders that establish pay requirements for different industries. Agricultural field workers are covered by IWC Order No.14. Workers who prepare agriculture products for a market are covered by IWC Orders 8 or 13. The DLSE (also called the Labor Commissioner's Office) enforces all the state laws and regulations relating to wages.

A. Minimum Wage & Overtime

IWC Wage Orders and Minimum Wage Poster are available at www.dir.ca.gov/IWC/WageOrderIndustries.htm

1. Minimum Wage

Currently, the minimum wage under state law is \$8 per hour (IWC Orders Section 4). The current federal minimum wage is \$7.25 per hour. When the state and federal minimum wage are different, you must pay the higher wage rate.

Workers may also be paid a piece rate, but the rate must be at least equal to the minimum wage, including overtime. That means, for example, that the total wage earned by an employee who worked 8 hours on a piece rate must be paid at least equal to the wages he or she would have received if they had been paid \$8 per hour for that 8 hours. In other words, piece rates may not be used to pay employees less than the minimum wage established by law.

There are a few exceptions to the minimum wage. Learners, persons over 18 who are learning a new skill on the job, may be paid 85 percent of the minimum wage. Under certain restrictions, some minors may be paid 85 percent of the minimum wage. The details of these are in Section 4 of the IWC Orders. If minors work any overtime, they must be paid the adult minimum wage for all the hours they worked in that week (LC 1394). Minors who are high school graduates will always be paid the minimum wage (LC 1394.1). Additional special requirements apply to minors performing farm labor. Please see Section VI, Child Labor in this guide.

Food and lodging supplied by the employer may count as wages if there is a *voluntary* written agreement with the employee. However, you may not charge any amount you wish. Instead, the IWC Orders set the exact amounts you may charge for meals and lodging. Those amounts are in Section 10 of the IWC Orders. It is a criminal violation to charge more than the amounts set by the IWC.

2. Overtime

In most occupations, including agricultural processing covered by IWC Orders 8 and 13, workers must be paid one and one-half times their regular rate of pay for all hours worked over 8 in a day and over 40 in a week. They must be paid twice their regular rate for all hours worked after 12 in a day and after 8 hours on the seventh consecutive day in a workweek (IWC Order 8 and 13, Section 3).

In agricultural field work, covered by IWC Order 14, workers must be paid overtime after 10 hours in a day and for the first 8 hours on the seventh consecutive day of work. They receive twice their regular rate for any work after 8 hours on the seventh day in a workweek (IWC Order 14, Section 3).

B. Wage Deductions

1. Required Wage Deductions

You must make deductions from your employees' wages that are required by state and federal law (LC 224).

2. Other Wage Deductions

You may not make deductions from an employee's wages to cover breakage, shortage, or loss of equipment, unless the employee intentionally causes the loss (IWC Orders Section 8).

You may not make any other deduction unless an employee gives you specific written permission to deduct wages for a personal medical insurance program, etc (LC 244).

C. Meal & Rest Periods

No employee may work more than 5 hours without receiving a half-hour meal period. If the workday is no more than 6 hours long, your worker may skip the meal period if you both agree. You do not have to pay your employees for the meal period time (IWC Order Section 11).

You must give your employees a 10-minute rest break for every four hours they work or major fraction thereof. That means that in an 8 to 10 hour day, a worker must receive two breaks. You do not need to give a rest break to a person if they work less than three and a half hours in a day. You must pay your employees for the rest period time (IWC Orders Section 12).

D. Paydays

You must pay your employees at least once each week (LC 205, 1696.5). The day must be designated in advance and posted on the Payday Notice (See "Posting Requirements" below) (LC 207). It is very important to pay wages on time.

Wages may be paid by check, cashier's check, money order, or cash. Wages may not be paid with coupons, cards, or scrip which are exchanged for anything other than cash (LC 212). For example, you may not pay workers with coupons that they have to exchange for food, clothing, shelter, or any other items.

E. Recordkeeping Requirements

You must keep the following records pursuant to IWC Orders Section 7:

1. Employee Identification

The name, address, occupation, and Social Security number of each employee. If the employee is a minor, include the birthdate.

2. Time Records

Time records that show when each employee starts and finishes work, and when the meal period is taken, and the total hours worked.

Total hours worked and total wages paid each payroll period, including meals, lodging, etc. If the employee asks for these records, you must supply them.

3. Wage Deduction Statement

Each time you pay your employees (even if you pay them in cash) you must give them a written statement in ink, in English, and properly dated showing month, day, and year, that shows:

- Employee's name
- Employee's Social Security number (only the last four digits may be shown) or employee identification number
- Employer's (legal entity) name and address

- Name and address of legal entity that secured the services of the farm labor contractor
- Dates of the pay period
- Total hours worked
- Gross wages earned
- Net wages earned
- Number of piece-rate units earned
- All deductions, such as taxes, medical benefits, etc.
- All applicable hourly rates in effect during the pay period (regular, overtime, or double time) and corresponding number of hours worked at each rate of pay

A copy of records of deductions must be maintained at the place of employment or central location for three years (LC 226, 1696.5; IWC Orders Section 7).

4. Records on File

All applications and the personnel files of terminated employees must be kept two years (GC 12946).

You must keep copies of all the records, including the records showing minors' ages, for three years (IWC Orders Section 7).

The Employment Development Department (EDD) recommends that employers keep payroll records for at least four years. State law requires that you maintain records of payments made to people who provide services to your business for at least eight years, in case of an employment tax audit.

F. Posting Requirements

The required posters are available at www.dir.ca.gov/wpnodeb.html

You must post the following posters at the worksite:

- The appropriate IWC Order where employees can easily read it.
- The Minimum Wage Poster.
- Payday Notice (a poster that states when the regular payday is).
- The FLC Statement of Pay Rates. This poster states your name, contractor's license number, and your rates of pay for types of jobs. The notice must be in English and Spanish.

G. Final Pay

1. If You Fire Your Employee

If you discharge or fire an employee, you must pay all the wages that you owe to the employee at the time you fire him or her (LC 201).

2. If Your Employee Quits

If an employee quits without notice, he or she must be paid within three days. If the employee gives you three days' notice, you must pay him or her at the time of quitting. If the employee asks to be paid by mail, the date of mailing is considered the date of payment (LC 202).

3. If You Don't Pay Wages Due

If an employee who quits or is fired is not paid on time, then you will be charged a penalty equal to the employee's wage for each day that you do not pay the wages due (LC 203).

4. If You and Your Employees Disagree on the Amount of Wages Due

If you and your employee do not agree about the amount of wages due, you must still pay the employee all the wages that you know are owed. You must resolve the dispute amount later (LC 206).

H. Miscellaneous

1. Valid Offer of Employment

If you drive workers to a jobsite and there is no work available as promised, you have to pay the workers' wages from the time you picked them up to the time you bring them back (LC 1696.6).

2. Tools

You must supply all the tools an employee needs to do his or her job if the employee is paid less than twice the minimum wage.

3. Discrimination

It is illegal for you to pay a different wage to women who do the same job with the same skill, effort and responsibility as men. You may pay different rates if it is based on a seniority system, or a merit system that measures quantity and quality of production (LC 1197.5)

4. Working Conditions Applicable to Shepherders

Shepherders shall be provided with all of the following at each work site:

- Regular mail service. In open range locations, mail delivery at least once a week.
- An appropriate form of communication, including but not limited to a radio and/or telephone, to allow shepherders to communicate with employers, health care providers, and government regulators. Employers may charge shepherders for all other uses.
- Visitor access to fixed-site housing and, when practicable, to mobile housing.

Study Chart for Chapter IV: Wages

Minimum Wage	<p>The California minimum wage is \$8 per hour. Workers paid on a piece rate must be paid at least the minimum wage. A piece rate cannot be used to pay less than the minimum wage.</p> <p>Food and lodging may be credited against the minimum wage if you and your employee have a voluntary written agreement. The amounts you may charge are strictly limited by state regulation; they are listed in Section 10 of the IWC Orders.</p>
Overtime	<p>Agricultural field work (IWC Order 14): You must pay 1 ½ times the regular rate after 10 hours in a day and for the first 8 hours on the seventh day of work. For all hours worked over 8 on the seventh day, you must pay double the regular rate.</p> <p>Agricultural processing (IWC Orders 8 and 13): You must pay 1 ½ times the regular rate after 8 hours in a day and 40 hours in a week.</p>
Deductions	<p>You must make all the deductions from an employee's wages that are required by state and federal law.</p> <p>You may not make any other deductions unless the employee requests it in writing.</p>
Meal & Rest Periods	<p>You must allow a half-hour unpaid meal period after no more than five hours of work.</p> <p>You must allow 10-minute paid rest breaks; two breaks in a regular day; one before and one after lunch</p>
Paydays	<p>You must pay employees once each week. \$50 and \$100 fines may be charged per employee who is not paid.</p> <p>Wages may not be paid in coupons or scrip that must be exchanged for anything other than cash.</p>
Record-Keeping	<p>Time records must show the start and end of each workday for each employee. Indicate meal periods, total hours and total wages paid.</p> <p>The deduction statement must show employee's name, employee's Social Security number (only the last four digits may be shown) or employee identification number, employer's (legal entity) name and address, name and address of legal entity that secured the services of the farm labor contractor, dates of the pay period, total hours worked, gross wages earned, net wages earned, number of piece-rate units earned, all deductions, such as taxes, medical benefits, etc., all applicable hourly rates in effect during the pay period (regular, overtime, or double time) and corresponding number of hours worked at each rate of pay. It must be written in ink, and in English.</p> <p>Keep wage records four years. State law requires that you maintain records of payments made to people who provide services to your business for at least eight years, in case of an employment tax audit.</p>
Postings	<p>IWC Order Minimum Wage Poster Payday Notice (states the regular payday) FLC Statement of Wages (shows FLC name, types of jobs and rates of pay)</p>
Final Pay	<p>Fired employees must be paid at the time they are fired.</p> <p>Employees who quit with three days notice must be paid when they leave. If no notice is given, they must be paid within three days.</p> <p>Employees who have quit or been fired must be paid on time. If you do not pay on time, you may be charged a penalty equal to the employee's daily wages for each day he or she is not paid. This penalty may continue up to 30 days.</p> <p>If there is a dispute about wages, you must pay the amount you know is due to the employee.</p>

Miscellaneous

If you drive workers to a jobsite, and there is no work as promised, you must pay them for all the time spent traveling.

You must supply tools if your employee is paid less than twice the minimum wage.

Women may not be paid less when doing the same quantity and quality of work as a man.

Sheepherders must receive mail delivery at least once a week, have a phone or radio, and visitor access to housing.

Chapter V. Workers' Compensation & State Disability Insurance

Division of Workers'
Compensation

www.dir.ca.gov/dwc

Employment Development
Department (EDD)

www.edd.ca.gov

Every employer must have workers' compensation insurance (LC 3700). Workers' compensation insurance covers medical expenses and lost wages of workers who are injured on the job. Injuries may be the result of a single incident or exposure to a hazard over a long period of time. All of your employees, full-time or part-time, must be covered. Even if you have workers that are illegally employed, they must be covered (LC 3351). It is illegal to collect any money from the employee, directly or indirectly, to pay for workers' compensation insurance (LC 3751).

Effective January 1, 2011, the penalty assessed for failure to have Workers' Compensation Insurance is based upon the greater of (1) twice the amount the employer would have paid in workers' compensation insurance premiums during the period the employer was uninsured, or (2) \$1,500 per employee. (LC 3722). In addition to the fines, investigators will close your business until you get insurance. While your business is closed, you must pay all your employees their regular pay for up to 10 days (LC 3710.1).

If one of your workers is injured while you are not insured, you may be fined \$2,000 to \$10,000 for each employee you have, depending on the circumstances (LC 3722). You may also be liable for the employee's lost wages and medical bills.

You must post a notice that shows that you have workers' compensation insurance. The notice must show the name of your insurance company and explain workers' rights in plain language. Those rights include the right to receive medical care, choose their own doctor, have lost wages paid, etc (LC 3550).

Workers who lose wages because of an injury or illness that is not caused by their work, or because of pregnancy, may be eligible for benefits from State Disability Insurance (SDI), a program run by the Employment Development Department (EDD). The employee pays for SDI through a payroll deduction which you are required to make. The Unemployment Insurance Code, Section 2613, requires you to give your employees a notice supplied by the EDD which tells workers their disability insurance rights. The EDD will give you the notice when you register with their department.

Chapter VI. Child Labor

The term “child labor” refers to the employment of minors (persons under 18 years of age). There are many state and federal rules that protect working minors. The rules have three basic purposes:

- 1. To limit children’s work hours so they can attend school and have time to study.*
- 2. To prevent minors from working in dangerous jobs where they might be seriously injured.*
- 3. To make sure that parents and school officials know who the minor is working for, where, and at what kind of jobs.*

To accomplish these goals, California requires that every working minor have a Permit to Work and employers have a Permit to Employ each minor.

A. Permit to Work & Permit to Employ

Minors cannot work for you unless they each have a Permit to Work, and you have a Permit to Employ each minor (EC 49111, LC 1299). Permits are issued by the local school district for minors aged 12 to 18 years. Even minors who are not residents of California must have permits issued by the local school district (LC 1286(c)). *Permits are always required—even during school vacation.* Only high school graduates do not require permits (EC 49101). It is illegal to hire minors under 12 years of age since permits cannot be issued for those minors.

Before a permit can be issued, you must file an “Intent to Employ” with the local school district (EC 49162) This form states the kind of work the minor will do, the hours the minor is expected to work, and requires the signatures of the minor, the parent, and the employer (EC 49163).

The Permit to Work and the Permit to Employ contain the minor’s name, the employer’s name, location of employment, the rate of pay, the minor’s work hours, the kinds of jobs a minor may work and the expiration date (EC 49115). Permits are issued to specific employers for specific locations; they cannot be transferred to another employer.

Permits can be revoked for the following reasons (EC 49164; LC 1300):

- There is false information on the permit.
- School officials decide the work is harmful to the minor’s health or education, even though the work may be technically legal.
- Violation of any employment restriction contained on the permit.
- The minor performed work not allowed by the permit.
- Conditions on which the permit was originally issued have changed for any reason.

You must keep all Permits to Employ on file and available for inspection by school authorities and labor investigators. If you do not have the proper permits available for inspection, it is assumed that the minors are working for you illegally, and you can be fined \$500 to \$1,000 (LC 1288, 1299; EC 49164).

B. Work Hours

Work hours are the total number of hours a minor may work in a day and in a week. Work hours also refers to the “spread of hours,” or the time of day minors

are allowed to work. For example, 16- and 17-year-olds are generally allowed to work during the spread of hours from 5 a.m. to 10 p.m. Both the spread of hours and the total work hours vary according to the age of the minor and whether or not school is in session. Work hours can be complex, and since the work hours are written on the permit, it is not necessary for you to memorize these hours to pass the test. However, you should be aware of the basic requirements:

- 12- and 13-year-olds may not work on schooldays; they may work only on weekends, holidays, and vacations (EC 49111).
- 14- and 15-year-olds may work on schooldays—before and after school only—but never before 7 a.m. or later than 7 p.m. (or until 9 p.m. during summer vacation, which is June 1 through Labor Day) They may not work more than 3 hours on a schoolday. During summer vacation (June 1 through Labor Day), 14- and 15-year-olds may work up to 8 hours a day and 40 hours per week, from 7 a.m. until 9 p.m. (LC 1391).
- 16- and 17-year-olds may work on schooldays before and after school only—but never before 5 a.m. They may work until 10 p.m., or until 12:30 a.m. if the next day is not a schoolday. When school is in session, they may not work more than 4 hours a day. During school vacations, 16- and 17-year-olds may work up to 8 hours a day and 48 hours per week, from 5 a.m. to 12:30 a.m. (LC 1391).
- Some 16- and 17-year-olds may be issued permits to work full-time during the school year and during school hours, but they must attend school part-time.
- Labor Code section 1393 authorizes the Labor Commissioner to grant exceptions to the limitations of the number of hours that 16- and 17-year-olds may work in a day at an agricultural packing plant during peak harvest season when school is not in session. An application form for exception can be found at www.dir.ca.gov/dlse/DLSE-CL.htm.

If you require or allow a minor to work any hours that are not permitted, you can be fined \$500 to \$1,000 (LC 1288). If you require or allow a minor to work more than 8 hours in a day, you can be fined \$5,000 to \$10,000 (LC 1288).

C. Hazardous Occupations

Child Labor Law details are available at
www.dir.ca.gov/dlse/ChildLaborPamphlet2000.html

Minors under 16 may not work with or near any hazardous machinery or gears (LC 1292, 1294) or any kind of dangerous moving equipment (8 CCR 11707). They may not work in any job that is unhealthy or dangerous to life or limb (LC 1288, 1294, 1308).

Minors under 18 may not be employed to drive a motor vehicle on highways or streets, except on an “occasional and incidental” basis if driving is not the principal purpose of the employment and must have a valid driver’s license. Note: you must have adequate insurance coverage for the vehicle being driven and the minor, including liability bond and personal injury coverage. (See Section VIII (B). (VC 12515; 29 CFR 570.52).

Minors under 16 may not be employed to drive a motor vehicle anywhere under any circumstances whatsoever (LC 1294).

Minors under 16 may not work in any of the occupations listed below. (These are the same occupations that the federal government has declared hazardous occupations for minors under 16 in agriculture.) (LC 1294.1; 29 CFR 570 subpart E-1)

- Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.
- Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operations) any of the following machines:
 Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner, feed grinder, crop dryer, forage blower, sugar conveyor, the unloading mechanism of a nongravity type self-unloading wagon or trailer, power post-hole digger, power post driver, non-walking type rotary tiller, trencher, earthmoving equipment, fork lift, potato combine, power-driven circular saw, band saw, or chain saw.
- Working on a farm in a yard, pen, or stall occupied by a bull, boar, or stud horse maintained for breeding purposes; a sow with suckling pigs; or a cow with a newborn calf with its umbilical cord present.
- Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.
- Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) from a height of over 20 feet.
- Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
- Working inside:
 A fruit, forage, or grain storage designed to retain an oxygen-deficient or toxic atmosphere;
 An upright silo within two weeks after silage has been added, or when a top unloading device is in operating position;
 A manure pit; or
 A horizontal silo, while operating a tractor for packing purposes.
- Handling or applying agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 135 et seq.) as Category I (toxicity identified by the word “poison” and the “skull and crossbones” on the label); or Category II (toxicity identified by the word “warning” on the label). This includes cleaning or decontaminating equipment; disposing of or returning empty containers; or serving as a flagman for aircraft applying such chemicals.
- Handling or using a blasting agent including, but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.
- Transporting, transferring, or applying anhydrous ammonia.

Allowing a minor to work in any hazardous occupation is a very serious offense, and you can be fined \$5,000 to \$10,000 (LC 1288).

Minors under 12—even when they are not employed—may not enter or even accompany their parents into an “agricultural zone of danger” or an area which includes any of the activities in the list above, or being on or near any moving equipment, unprotected chemicals, or unprotected water hazards. Allowing a minor under 12 to enter an agricultural zone of danger—even if they are not actually

working at a job—is a very serious offense, and you can be fined \$ 5,000 to \$10,000 (LC 1288).

Minors may not be employed in occupations that are immoral (LC 1294). Farm labor contractors may not send minors under 18 to any house of prostitution or gambling house or to any saloon (LC 1698.4 1698.5). Your FLC license can be suspended or revoked if you engage a minor in any of these activities.

D. Federal Requirements

The state's permit, working hours, and hazardous occupation requirements are equal to or greater than the federal requirements. That means that when you obtain and obey the restrictions of a state Permit to Work and Permit to Employ for each of your minor employees, you are in compliance with federal law.

Study Chart for Chapter VI. Child Labor Law

TOPIC	AGES 12 & 13	AGES 14 & 15	AGES 16 & 17
Work Hours	May not work on a school day. May only work on weekends, holidays and summer vacation.	May work after school. May work on weekends, holidays and summer vacation.	May work before and after school, on weekends, holidays, and summer vacation. May obtain a permit to work full-time during the school year, but must attend part-time classes if not a high school graduate.
Maximum Hours <input type="checkbox"/>	8 per day/40 per week	3 per day/18 per week during school year. 8 per day/40 per week when school is not in session.	4 per day/48 per week during school year. 8 per day/48 per week when school is not in session.
Spread of Hours	7 a.m. to 7 p.m. (until 9 p.m. June 1st to Labor Day)	7 a.m. to 7 p.m. (until 9 p.m. June 1st to Labor Day)	5 a.m. to 10 p.m. (until 12:30 a.m. on a night before a non-school day)
Hazardous Occupations	May not be employed in a hazardous occupation (see list on pages 38-39) No driving	May not be employed in a hazardous occupation (see list on pages 38-39) No driving	May be employed in any agricultural occupation except driving. No driving <input type="checkbox"/>
Permits	<p>Employing minors under 12 is strictly prohibited; they cannot be issued permits to work.</p> <p>Every minor who works must have a Permit to Work.</p> <p>You must have a Permit to Employ for each minor that works for you.</p> <p>Permits are issued by the local school district after you file with them an “Intent to Employ” signed by you, the minor, and the parent.</p> <p>The permit states the hours and occupations that the minor may work. You must follow all the conditions stated on the permit.</p> <p>You must keep permits on file and available for inspection by school authorities and labor investigators.</p>		
High School Graduates	High school graduates do not require permits, and may be employed for the same hours as adults—but they must be paid the same as an adult.		
Zone of Danger	Minors under 12—even though they are not working at a job—may not enter for any reason an “agricultural zone of danger” which includes being in or around any unprotected chemicals, water hazards, any moving machinery, or any activity listed on pages 38-39 as hazardous to minors under 16. <input type="checkbox"/>		
Federal Requirements	State requirements are equal to or greater than federal requirements, so when you obey state law you are in compliance with federal law.		

Chapter VII.

Employee Housing

If you supply housing or operate housing supplied by a grower for five or more farmworkers, you must meet all the requirements in this chapter. The housing may be supplied on a temporary, seasonal, or permanent basis (HSC 17008). The building must meet the minimum standards of the Employee Housing Act (HSC 17000-17062.5). "Housing" means any living quarters, including houses, boarding houses, bunkhouses or dormitories, mobile homes, tents, travel trailers, and recreational vehicles. Basically, all housing must be well built, have clean water, good plumbing, heating, and fire prevention. Residents should be protected from insects, rodents, and overcrowding. If you operate housing that is owned by a grower, both of you are responsible for the condition of the housing (25 CCR 627).

A. Permits

Contact information, forms, booklets, and publications are available at

www.hcd.ca.gov/codes/eh/

To operate farmworkers' housing, you must obtain a permit from the Department of Housing and Community Development (HCD) (HSC 17030; 8 CCR 3350). Local enforcement agencies in Kern, Merced, Monterey, Napa, Sacramento, San Joaquin, San Mateo, Santa Cruz, Stanislaus, and Tulare counties are also authorized by HCD to issue housing permits.

Permits are issued after housing inspectors have examined the property to make sure that it is safe and sanitary. To allow for this inspection, you must apply for a permit at least 45 days before the workers move in (HSC 17032; 25 CCR 631).

B. Postings

You must post the following on a bulletin board attached to the wall of the housing you operate:

- A notice, in English and Spanish, that outlines the state requirements for the employee housing (25 CCR 624). The notice must show the name, address and telephone numbers of the housing enforcement agency and the name of the enforcement official that workers may contact (25 CCR 625). The notice will be given to you by the agency issuing the permit;
- A notice that shows the name, address and telephone number of the person responsible for properly maintaining the housing (HSC 17038; 25 CCR 627); and
- A copy of the state or local permits to operate. The original must be kept for three years. (These are federal requirements.) (29 USC 1823; 29CFR 500.135).

C. Workers' Rights

A person living in housing that you operate has the right to:

- Complain to you, the landlord, or the employer about the housing;
- Complain to an enforcement agency about the housing; or
- Use any legal right related to housing.

If the person does any of the above, it is illegal for you to force the person out by:

- Raising the rent;
- Reducing services;
- Threatening eviction;
- Refusing to renew the housing agreement;
- Firing them;
- In any way threatening them;
- Blacklisting them;

- Preventing them from doing something they want to do; or
- Forcing them to do something that they don't want to do (HSC 17031.5).

D. Federal Requirements

In addition to requiring a state housing permit (29 CFR 500.135), federal law requires that you be authorized by the U.S. Department of Labor to operate housing as a part of your application for your federal FLC certificate (29USC 1812(3); 29 CFR 500.48 (f)). Federal law also requires that the housing meet substantive state and federal health and safety standards (29 USC 1823(a) 29 CFR 500.130).

Study Chart for Chapter VII: Employee Housing

TOPIC	STATE REQUIREMENTS	FEDERAL REQUIREMENTS
Housing permit	Obtain a permit from HCD Keep the original for three years	You must be authorized by the U.S. Department of Labor to operate housing as a part of your application for your federal FLC certificate. The housing must meet state and federal health and safety standards
Housing postings	Post: Notice of state requirements in English and Spanish Notice with contact info for responsible person Copy of housing permit	
Workers' rights	People living in housing you operate have rights and it is illegal to deny them their rights.	

Chapter VIII.

Transportation

You must follow all the rules in this chapter and the California Vehicle Code when you drive one or more farmworkers in a farm labor vehicle. A “farm labor vehicle” is a vehicle “designed, used, or maintained” to transport nine or more farmworkers, not counting the driver (VC 322). That means that when you drive less than nine farmworkers in ordinary passenger cars or in pickup cabs, you are exempt from these regulations, but if you drive just one farmworker in a “farm labor vehicle,” you have to obey all the regulations. Vehicles which carry only the owner’s or driver’s immediate family members are also exempt from these regulations (VC322). Federal regulations have the same exemptions (29 CFR 500.102).

A. Required License & Certificates

You must carry all of the following documents with you at all times:

1. Commercial Drivers License

You must have a valid commercial drivers license with a “passenger vehicle endorsement” (VC 12519 and 12804.9). Federal regulation also requires you to have the appropriate state license to operate a farm labor vehicle (29 CFR 500.48). Persons who possess a commercial driver license who are convicted of a violation of the Vehicle Code are not allowed to go to traffic violator school (VC 42005).

2. Certificate to Operate a Farm Labor Vehicle

In addition to the license, you must also have a special certificate to operate a farm labor vehicle (VC 12519). To get a certificate, you must apply at the California Department of Motor Vehicles (DMV). You then have to take a driver training course (VC 12519 (b) and EC 40070). The course lasts a total of 20 hours: 10 hours of classroom instruction and 10 hours of behind-the-wheel training (EC 4008). When you have completed the training course, you have to pass an examination at the California Highway Patrol (CHP) office. After you pass the CHP examination, you get the certificate.

To renew your certificate, you must get at least two hours of additional classroom instruction each year. If you do not get this additional instruction, your certificate may be cancelled (EC 40086, VC 13369).

If you have a “violation point count” of two or more, or have a license suspended, revoked or restricted due to unsafe driving, the DMV can refuse to issue or renew or can revoke your license (VC 13369).

The DMV may also refuse to issue or renew, or may take away either your certificate or your passenger endorsement, if you were the driver in any accident that caused death, serious injury or serious property damage in excess of \$500 within the last two years; if you were at fault or contributed to three or more accidents while driving within the last year; gave false information on an application; were judged as a negligent or incompetent driver; demonstrated irrational behavior that could impede safe driving; abused alcohol or drugs; or do not meet the state’s minimum medical requirements. Certificates or endorsements can be cancelled if you do not have an appropriate and valid license or fail to pay proper fees (VC 3369).

Federal regulation requires FLC certificates to indicate “Transportation Authorized, (TA)” if the FLC hires drivers. Federal Farm Labor Contract Employee (FLCE) certificates must indicate “Driving Authorized (DA).” FLCs who transport for an

agricultural employer (AGER) or an agricultural association (AGAS) must have both authorizations on their certificate (29 CFR 500.48). Federal regulation also requires you to have the appropriate state license to operate a farm labor vehicle (29 CFR 500.48).

3. Medical Certificate

You must have a current medical certificate (VC 12804). The certificates are issued after passing a medical examination performed by a licensed physician (12 CCR 100.18 and 100.19) and must be renewed every two years (VC 12804.9). If you do not have a medical certificate, your commercial license is only good for driving ordinary passenger vehicles (VC 12804.9). Without a current medical certificate, your certificate to operate a farm labor vehicle can be cancelled (VC 13369).

The purpose of the medical examination is to find out if you have any physical or mental problems serious enough to interfere with the safe operation of a motor vehicle, including alcoholism or impairment by any legal or illegal drugs (13 CCR 100.18 and 13CCR 100.19; 49 CFR 391.41 and 391.43). The state certificate fulfills the federal requirement for a medical examination (29 CFR 500.48).

4. Vehicle Inspection Certificate

Your farm labor vehicle must have a safety inspection certificate (VC 31401). You can get a certificate from the California Highway Patrol, following an inspection. You must clearly display the certificate in a certificate holder inside the vehicle at all times (13 CCR 1231). Having an inspection certificate does not allow you to operate an unsafe vehicle (VC 31402, 31403 and 13 CCR 1230). You are still expected to make daily inspections of the vehicle and provide a written report of the vehicle's condition with repair recommendations to the employer each day (13 CCR 1215). A vehicle damaged in an accident may not be driven from the accident site until it has been properly inspected (13 CCR 1230).

5. Vehicle Registration

All farm labor vehicles must be registered with the Department of Motor Vehicles, the state Labor Commissioner (LC 1696.4), and the U.S. Department of Labor (29 CFR 500.48(d)(1)).

B. Vehicle Insurance Requirements

1. State Requirements

California requires farm labor vehicles to be insured for personal injury and property damage (LC 1695 (a)(6) and 1696.4). The state of California requires the following amounts of vehicle insurance.

Farm labor contractors who provide labor (and must therefore have workers' compensation insurance) but do not charge a transportation fee, must provide at least:

- \$15,000/30,000 for personal injury for vehicles carrying 15 or fewer passengers, including the driver; or
- \$30,000/60,000 personal injury for vehicles carrying more than 15 passengers; and
- \$50,000 minimum coverage for property damage for vehicles of any size.

Day haulers who provide transportation only (and are therefore not required to carry workers' compensation insurance) and may or may not charge a transportation fee, must provide at least:

- \$1.5 million personal injury coverage for vehicles carrying 15 or fewer passengers, including the driver; or
- \$5 million for vehicles carrying more than 15 passengers, including the driver; and
- \$50,000 minimum coverage for property damage for vehicles of any size.

2. Federal Requirements

The federal government also requires that vehicles be insured or covered by a liability bond as follows: (29 USC 184 (b)(1)(C); 29 CFR 500.48(d)(3) and 500.120 et seq.)

- \$1.5 million personal injury coverage is required for 15 or fewer passengers;
- \$5 million personal injury coverage is required for more than 15 passengers;
- \$50,000 minimum coverage is required for property damage.

However, if workers are covered by state workers' compensation insurance, you have only to be insured for property damage (29 USC 184 (c)(1)).

C. Driving Restrictions

1. Maximum Speed

Farm labor vehicles carrying passengers may not be driven faster than 55 miles per hour under any circumstances (VC 22406).

2. Maximum Driving Hours

Regulations for maximum on-duty hours and maximum driving hours for drivers who drive only within the state ("intrastate" driving) are contained in 13 CCR, Chapter 6.5, and are the same as the federal regulations 13 CFR 1212.5 (b). These regulations are enforced by the California Highway Patrol. When you drive across the state line ("interstate" driving) you then become subject to the regulations of the U.S. Department of Transportation. (These regulations have been adopted by the Department of Labor and appear in 29 CFR 500.105.)

Intrastate Drivers

Drivers who drive only within California may not drive more than 10 hours within a work period, or drive after 16 consecutive hours have elapsed since beginning work. After either of these time periods, prior to driving again, the drivers must have 8 consecutive hours off duty (13 CCR 1212.5(a)(3)). Intrastate drivers may not drive after having been on duty 80 hours in any 8 consecutive days (13 CCR 1212.5(b)(2)).

Interstate Drivers

Interstate drivers may not drive more than 10 hours in any period of 24 consecutive hours (not counting rest and meal stops). After that 10 hours, the driver must have 8 consecutive off-duty hours. Drivers and passengers who travel in any truck must stop and rest for 8 hours after 600 miles of travel (29 CFR 500.105 (b)(2)(X)). The interstate driver may not drive after having been on duty 60 hours in any 7 consecutive days (for carriers who do not operate every day of the week), or after having been on duty 70 hours in any 8 consecutive days (for carriers who do operate every day of the week) (13 CCR 1212.5 (b)(1)).

Interstate drivers for property-carrying vehicles may not drive more than 11 hours. After those 11 hours, the driver must have 10 consecutive off-duty hours (49 CFR 395.3(a)(1)). The interstate drivers may not drive beyond the 14th hour after coming on duty, following 10 consecutive hours off duty (49 CFR 395.3(a)(2)). The interstate drivers may not drive after having been on duty 60 hours in any 7 consecutive days (for

carriers who do not operate every day of the week) (49 CFR 395.3(b)(1)), or after having been on duty 70 hours in any 8 consecutive days (for carriers who do operate every day of the week) (49 CFR 395.3(b)(2)).

Interstate drivers for passenger-carrying vehicles may not drive more than 10 hours. After those 10 hours, the driver must have 8 consecutive off-duty hours (49 CFR 395.5(a)(1)). The interstate drivers may not drive after having been on duty 15 hours following 8 consecutive hours off-duty (49 CFR 395.5(a)(2)). The interstate drivers may not drive after having been on duty 60 hours in any 7 consecutive days (for carriers who do not operate every day of the week) (49 CFR 395.5(b)(1)), or after having been on duty 70 hours in any 8 consecutive days (for carriers who do operate every day of the week) (49 CFR 395.5(b)(2)).

3. Required Records

Employers whose drivers:

- Operate within 100 miles of his or her normal work reporting location; or
- Work a maximum 12 consecutive hours (which must end at their work reporting location and be followed by 8 consecutive hours off-duty);

Must keep accurate time records on file for six months which show:

- The driver's reporting time each day;
- The total number of hours the driver is on duty each day;
- The time the driver is released from duty each day;
- The total time for the preceding 7 consecutive days if the driver is a first-time hire or only works occasionally (13 CCR 1213(k)(2)).

Drivers who work shifts longer than 12 hours, or drive beyond a 100-mile radius, must keep a driver's log. The extensive requirements for a driver's log are detailed in 13 CCR 1213. The state driver's log requirements are identical to federal requirements.

When you employ drivers, you must maintain records of your drivers' qualifications, medical certification, continuing education requirements, daily driving time, total on-duty time, drivers' daily vehicle inspection reports, and other required vehicle maintenance records. A complete list of recordkeeping requirements for drivers' employers is contained in 13 CCR 1234. You must also participate in the DMV's Pull Notice Program (VC 1808.1). That means you must monitor the license status of your drivers. The DMV sends you a report every six months or any time your driver gets a ticket or has an accident. You must keep a file for each driver and present it to a CHP officer upon request.

D. Alcohol and Drug Use

1. Maximum Blood Alcohol Content

No person may drive a farm labor vehicle in California with a blood alcohol content of 0.01% or greater (13 CCR 1213.1(c))

2. Employer Testing Program

The state of California has joined forces with the federal government to require employers who operate commercial motor vehicles to test their drivers for controlled substance and alcohol use as required under the federal Omnibus Transportation Employee Testing Act of 1991 (VC 34520; 49 CFR Part 382). For purposes of farm labor, "commercial vehicles" are vehicles that carry 16 passengers or more (including

the driver) or vehicles of any size used to transport hazardous materials (such as pesticides) that are required to have signs indicating that hazardous materials are on board.

These requirements apply to you even if you are self-employed. However, if you use only vehicles that carry less than 16 passengers (including the driver) and do not transport hazardous materials, the testing requirements do not apply to you.

Employers must notify the employee that testing is required (49 CFR 382.113).

Employers with more than one driver may conduct their own testing program or join with other employers to develop and maintain a program. Private companies provide testing services.

The following description is only a very brief summary of the testing program requirements. For further information on the employer testing program, contact:

California Highway Patrol Commercial Vehicle Section

P.O. Box 942898

Sacramento, CA 94298-0001

(916) 445-1865

www.dmv.ca.gov/vehindustry/etp/etpinfo.htm

Federal Highway Administration

211 Main Street, Room 1108

San Francisco, CA 94105

(415) 744-3088

www.fmcsa.dot.gov/safety-security/safety-initiatives/drugs/drugs-alcohol.htm

Testing Program: Basic Prohibitions

In addition to the requirement that drivers of farm labor vehicles cannot exceed a 0.01% blood alcohol level, drivers cannot have alcohol with them, or use alcohol while on duty, or within 4 hours of driving. If the employer knows a driver is in violation of any of these requirements, he or she cannot permit the driver to perform any duties related to driving. If a driver tests positive for drugs, he or she cannot report for duty, remain on duty, or perform any safety-sensitive work. Employers who know that a driver has tested positive cannot allow that driver to perform safety-sensitive duties. Drivers taking drugs prescribed by a doctor may drive if the doctor says it's OK. Employers may require a driver to tell them if they are taking prescription drugs (49CFR Part 382 Subpart B).

Testing Program: Required Tests

Pre-Employment Testing. Drivers must be tested in an approved testing program for alcohol and drugs before being allowed to perform any safety-sensitive work.

Exceptions to the alcohol test:

1. The driver has passed an approved alcohol test within the previous 6 months; or
2. The driver's previous employers have no record of a testing violation within the previous 6 months.

Exceptions to the drug test:

1. The driver has been in an approved testing program within the previous 30 days and was tested within 6 months of his or her application, or was in a random testing program for the previous 12 months;

2. A driver's previous employers have no record of a testing violation within the previous 6 months (49 CFR 382.301).

Post-Accident Testing. Drivers must be tested as soon as possible after an accident in which they were cited for a moving traffic violation or which involved loss of life (49 CFR 382.303). A driver's refusal to take this test counts as a positive test result (49 CFR 382.211). Drivers required to take a post-accident test may not use alcohol until 8 hours after the accident or until they take a post-accident test, whichever comes first (49 CFR 382.209).

Random Testing. Employers must randomly test 25 percent of their drivers for alcohol each year and 50 percent of their drivers for drugs each year, depending on federal requirements (49 CFR 382.305). A driver's refusal to take this test counts as a positive test result (49 CFR 382.211).

Reasonable Suspicion Testing. An employer must require a driver to be tested for alcohol or substance abuse if (after proper training in recognizing symptoms) the employer suspects the driver, based on specific observations of appearance, behavior, speech, or body odor of the driver. Suspicion may also be based on observed symptoms of drug withdrawal (49 CFR 382.307). A driver's refusal to take this test counts as a positive test result (49 CFR 382.211).

Return-to-Duty Testing. Drivers may not return to duty after having violated regulations governing alcohol or drugs until they pass a return-to-duty test (49CFR 382.309).

Testing Program: Required Records

Drivers are not required to have any special documents in their immediate possession. The recordkeeping requirements apply only to employers. Employers must keep detailed records of their testing program, including, for example, test results, driver refusals to take tests, testing equipment calibration, driver evaluations and referrals, and if requested, an annual summary of the testing program (49 CFR 382.401-403).

Employers may not reveal a driver's records unless authorized by law (49 CFR 382.405). Records may only be given to the following (49 CFR 382.405):

- Authorized state and federal officials;
- The driver (upon written request);
- Subsequent employers (but only with the driver's written permission);
- Any person chosen by the driver (but only with the driver's written permission); or
- Certain parties in specified legal proceedings such as a lawsuit, grievance, or workers' compensation claim.

Testing Program: Information, Training, and Referral

Every employer who has a testing program as required under federal regulation must also provide employees with a description of the testing requirements and a description of the employer's program (49 CFR 382.601).

Supervisors must be trained for at least one hour to recognize alcohol misuse and for at least one hour to recognize drug misuse (49CFR 382.602).

Each driver who violates alcohol or controlled substance prohibitions must be evaluated by a substance abuse professional (49 CFR 382.605). The substance abuse professional may require a driver to enroll in a treatment program. These drivers are subject to follow-up testing in addition to the return-to-duty test (49 CFR 382.605 and 382.311). Drivers may not refuse to take the follow-up tests (49 CFR 382.211).

E. Vehicle Restrictions

1. Transporting Passengers

All your vehicle passengers must be seated. The total weight of passengers and property may not exceed the vehicle's gross weight rating. Don't put the vehicle in motion until all doors are closed (13 CCR 1217).

2. Emergency Exits

Emergency exits must be clear, unlocked, and in working condition at all times.

Emergency doors must open from the inside and outside of the vehicle. All exits must be clearly labeled "Emergency Exit" in English and the workers' language. The signs must be on both the inside and outside of the vehicle (13 CCR 1268).

The size, type and number of emergency exits depend on the type of vehicle and the date of its manufacture, but basically larger buses must have at least one emergency door or push-out escape window at the rear or on each side of the bus. The California Highway Patrol can advise you on the requirements when you have the vehicle inspected, but the details are in 13 CCR 1268 and 1269.

3. Fueling Restrictions

You must not let passengers stay on your bus when it is being fueled. When a bus is being fueled, you must keep it away from anything that could start a fire. You must also keep the engine off, and turn off any transmitting radios in the vehicle (13 CCR 1218).

4. Safety Equipment Requirements

Your vehicle must have:

- A fire extinguisher with at least a 4B:C rating that is clearly marked and mounted (13 CCR 1242).
- A first aid kit appropriate to the number of passengers (13 CCR 1243).
- Seat belts for every passenger location which must be worn by your passengers when the vehicle is operating (VC 31405).
- Headlights on at all times when being operated (VC 31408).

5. Transporting Property

You are forbidden from carrying any hazardous materials or any extra fuel in any kind of container in a farm labor vehicle. Tools that have sharp edges may be carried in the passenger compartment if they are kept in covered containers. Any other tools or equipment must be tied down. Additional personal property must be secured and aisles and exits kept clear at all times (13CCR 1216). You may tow a trailer only if you carry property to be used by the passengers. When fully loaded, one trailer may not weigh more than 6,000 lbs (13 CCR 1235).

6. General Vehicle Requirements

Detailed regulations cover every aspect of a farm labor vehicle. The California Highway Patrol will check these when you have your vehicle inspected. You can learn more about the regulations that cover tires, rims, wheels, brakes, towing equipment, storage batteries, air tanks, fuel systems, mirrors, heaters and defrosters, ventilation, exhaust systems, speedometers and odometers, interior lamps, passenger compartments, drive shaft protection, seats, and bus entrance and exits in 13 CCR 1244-1267.

7. Renting Vehicles

If you rent vehicles, you must rent them for a flat rate. You may not rent vehicles for a percentage of your earnings (LC 1696.4).

Study Chart for Chapter VIII: Transportation

TOPIC	STATE REQUIREMENTS	FEDERAL REQUIREMENTS
Required Documents You must carry all these documents with you at all times.	<ul style="list-style-type: none"> o FLC license or day hauler license o Commercial license with a passenger vehicle endorsement o Certificate to operate a farm labor vehicle issued by DMV. o Must complete an approved driver course for farm labor vehicles. Renewal requires two hours of classroom instruction each year. o Certificate of Health o Vehicle safety certificate issued by CHP after an inspection must be displayed inside the vehicle o DMV vehicle registration. (Vehicle must be registered with Labor Commissioner, but no document issued) 	<ul style="list-style-type: none"> o FLC certificate must show transportation authorized (TA). o FLCE certificate must show driving authorized (DA) o FLCs who transport for a agricultural employer (AGER) or an agricultural association (AGAS) must have both authorizations on their certificate. o Must meet state licensing requirements to operate vehicle o Certificate of health. State certificate is OK. o State vehicle safety certificate is OK. o Vehicle must be registered with the Department of Labor, but no document issued.
Driving Restrictions	<ul style="list-style-type: none"> o Driving limited to 10 continuous hours or 16 continuous hours on duty. Driver must then rest 8 continuous hours before driving again. May not drive after 80 hours on duty in 8 consecutive days. o Employer must keep time, duty, and mileage records if drivers' day is less than 12 hours and within a 100-mile radius. Driver's log required for trips beyond a 12-hour day and 100-mile radius. Driver's log required for trips beyond a 12-hour day and 100-mile radius. Keep records 6 months. o Farm labor vehicles carrying passengers may not be driven more than 55 miles per hour. o Driver may not operate vehicle with a blood alcohol content of 0.01% or greater. 	<ul style="list-style-type: none"> o Driving limited to 10 hours (including rest and meal stops) in any period of 24 consecutive hours which begins at the start of duty. Must rest 8 consecutive hours immediately following 10 hours of driving. o For carriers who operate every day, drivers may not drive after 70 hours on duty in 8 consecutive days. For carriers who do not operate every day, drivers may not drive after 60 hours on duty in 7 consecutive days. o Driver and passengers must stop and rest for 8 hours after 600 miles of travel in any truck. o Driver's log requirements are the same as state's.
Required Testing for Alcohol & Drug Use	<ul style="list-style-type: none"> o Employers using vehicles that carry 16 passengers or more including the driver, or that carry hazardous materials, must conduct an approved program for alcohol and substance abuse testing. o Program must include pre-employment testing, random testing, reasonable suspicion testing, post accident testing, return-to-duty and follow-up testing. o Employers must maintain careful records. 	
Vehicle Insurance	<p>FLCs with workers' comp and charge workers no fee:</p> <ul style="list-style-type: none"> • 15 or less passengers: \$15,000/30,000 personal injury • More than 15: \$30,000/60,000 personal injury • \$50,000 property damage minimum all vehicles <p>FLCs without workers' comp and charge a fee:</p> <ul style="list-style-type: none"> • 15 or less passengers: \$1.5 million personal injury • More than 15: \$5 million personal injury • \$50,000 property damage minimum all vehicles 	Vehicle must be insured or covered by a bond. If workers are covered by state workers' compensation insurance, only property liability (\$50,000) is required. Otherwise, \$1.5 million for 15 and fewer passengers; \$5 million for more than 15 passengers
Vehicle Requirements	<ul style="list-style-type: none"> o All vehicles must be safe, inspected daily, and regularly maintained. o Head lights must be on at all times when operating a farm labor vehicle. o All passengers must be seated and wearing seat belts. o Passengers must not be on board a bus during fueling. o No farm labor vehicle may carry hazardous materials or any extra gasoline. o Emergency exits must be marked inside and outside vehicle in English and workers' language. o Emergency doors must operate from inside and outside vehicle. All aisles must be clear at all times. o All vehicles must have a fire extinguisher with at least 4B:C rating and a first aid kit appropriate to the number of passengers. o Sharp tools must be in covered containers, all others secured to vehicle. o Vehicles must be rented on flat rate, not percent of earnings. 	Basic vehicle safety requirements are substantially the same as the state's.

Chapter IX.

Discrimination/

Retaliation

It is illegal in the State of California to retaliate against any employee who provides information to a government or law enforcement agency where the employee has reasonable cause to believe that the information discloses a violation or noncompliance with a state or federal statute, rule, or regulation. You cannot discharge, demote, suspend, or discipline in any manner an employee who engages in this protected activity.

A. Laws Prohibiting Discrimination and Retaliation

For more information, see
www.dir.ca.gov/lawsandregs.html

An employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation (LC 1102.5 (a)).

An employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation (LC 1102.5 (b)).

An employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation (LC 1102.5 (c)).

An employer may not retaliate against an employee for having exercised his or her rights under subdivision (a), (b), or (c) in any former employment (LC 1102.5 (d)).

Glossary of Terms & Abbreviations

AGAS A federal term which means “Agricultural Association.” This refers to formal groups of growers or cooperatives.

AGER A federal term meaning agricultural employer, or grower

Agricultural Pest Control Advisor (PCA) A person licensed by the state Department of Pesticide Regulation to make expert pest control recommendations concerning the application of agricultural use pesticides.

Agricultural Zone of Danger Dangerous areas where minors under 12 are not allowed, even though they are not employed. They may not be in a zone of danger even if their parents are present. Includes unprotected chemicals, water hazards and moving machinery and all hazardous occupations for minors under 16.

Cal/OSHA The state agency that enacts, enforces and advises you about regulations related to safety and health. Also see Division of Occupational Safety and Health (DOSH).

California Highway Patrol (CHP) The state police agency that checks licenses and violations related to motor vehicles, including farm labor vehicles. The CHP inspects farm labor vehicles and issues required vehicle safety certificates for them.

CCR California Code of Regulations

Certificate to Operate a Farm Labor Vehicle The Department of Motor Vehicles requires everyone who drives a farm labor vehicle to pass a driver training course to obtain this certificate.

CFR Code of Federal Regulation

CHP See California Highway Patrol.

DA Driving Authorized—a federal authorization to drive farmworkers in a motor vehicle.

Department of Health Services (DHS) A state agency that makes some of the health and safety regulations affecting farmworkers.

Department of Housing & Community Development (DHCD) A state agency that makes the rules governing farmworker housing. Along with some county agencies, DHCD issues housing permits and enforces housing regulations.

Department of Industrial Relations (DIR) A state Department responsible for employer-employee laws and regulations. Includes the Office of the Labor Commissioner, Cal/OSHA and Workers’ Compensation Division.

Department of Labor The federal agency that administers and enforces the Fair Labor Standards Act (FLSA) and the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

Department of Motor Vehicles (DMV) A state agency that makes rules governing motor vehicles. The DMV issues licenses, certificates to operate farm labor vehicles, vehicle registration, etc.

Department of Pesticide Regulation (DPR) The state agency that makes and enforces the pest control laws and regulations pertaining to the sale, use, and recommendation of pesticides which include the safety rules. DPR, together with the County Agricultural Commissioners, enforces pesticide regulations and provides information about pesticides and their safe use in California.

DHCD See Department of Housing & Community Development.

DHS See Department of Health Services.

DIR See Department of Industrial Relations.

Division of Labor Standards Enforcement (DLSE) The DIR division that enforces the IWC Orders and many provisions of the California Labor Code, including minimum wage, overtime, working conditions, child labor laws, workers' compensation insurance, and laws governing farm labor contractors. Also known as the Office of the Labor Commissioner.

Division of Labor Statistics & Research (DLSR) The state agency that keeps records of employment-related issues such as worker injuries.

Division of Occupational Safety & Health (DOSH) The DIR division also referred to as CAL/OSHA that enacts, enforces and advises you about regulations related to safety and health.

DLSE See Division of Labor Standards Enforcement.

DLSR See Division of Labor Statistics & Research.

DMV See Department of Motor Vehicles.

DOL See Department of Labor.

DOSH See Division of Occupational Safety & Health.

DPR See Department of Pesticide Regulation.

EC Education Code

EDD See Employment Development Department.

Employee Housing Act A group of state laws that establish farmworker housing standards.

Employment Development Department (EDD) Farm labor contractors must be registered with this state agency that administers the Unemployment Insurance Fund and the State Disability Insurance program.

FAC Food & Agriculture Code

Fair Labor Standards Act (FLSA) The federal law that establishes minimum standards for wages, overtime pay, and child labor.

Farm Labor Contractor (FLC) Recruits, hires, furnishes, and supervises seasonal or temporary agricultural laborers for a fee. May transport, house, and provide meals for workers.

Farm Labor Contractor Employee (FLCE) A term used in federal law for a person who works for an FLC and performs farm labor contracting activities as a part of his or her job. An FLCE requires a special federal certificate, but the state does not require an FLCE to be registered.

Farm labor vehicle A vehicle designed, used, or maintained to carry nine or more farmworkers, not counting the driver.

FLC Farm Labor Contractor

FLCE See Farm Labor Contractor Employee.

FLSA See Fair Labor Standards Act.

GC Government Code

General Industry Safety Order (GISO) Another name for a California state regulation pertaining to occupational safety and health. The number of the order is the section number of the regulation located in Title 8 of the California Code of Regulations.

GISO See General Safety Order.

Hazard Communication Program Requires you to make certain leaflets available to fieldworkers and workers who handle pesticides. (See Chapter III. Pesticide Safety)

Hazardous Occupations Refers to occupations in which a child could be seriously injured, such as around moving machinery, chemicals, etc. No child under 16 may be employed in a hazardous occupation.

HSC Health & Safety Code

IIPP See Injury & Illness Prevention Program.

Industrial Welfare Commission (IWC) A state agency that establishes minimum wage, overtime provisions, and basic working conditions. The IWC issues Orders that govern industries and occupations. Orders 8, 13, and 14 regulate agriculture and agriculture processing occupations.

Injury & Illness Prevention Program (IIPP) A written safety program that Cal/OSHA requires of all California employers.

Interstate Refers to any activity that involves going from one state into another state, even if you only momentarily cross a state line.

Intrastate Refers to any activity that is done completely within one state without crossing into another state.

IWC See Industrial Welfare Commission.

IWC Orders See Industrial Welfare Commission.

Labor Commissioner Chief of the DIR Division of Labor Standards Enforcement (DLSE); also refers to the DLSE itself as in "Office of the Labor Commissioner."

LC Labor Code

Material Safety Data Sheets (MSDS) Technical information about a particular pesticide's physical and chemical properties. It is produced by and available from the pesticide registrant/manufacturer. Also available from the grower or farm operator or the Pest Control Dealer (PCD) or Pest Control Business (PCB).

Migrant & Seasonal Agricultural Workers' Protection Act (MSPA) The group of federal laws that protects the interests of farmworkers by regulating farm labor contractors and other agricultural employers. The MSPA requires the FLC to maintain certain working conditions, housing and transportation standards, and to have an FLC or FLCE certificate. The law is in Title 29 of the United States Code, Sections 1801 through 1872. The accompanying regulations are in Title 29 of the Code of Federal Regulation, Part 500. These laws and regulations are included in your study packet.

Minor Any person under 18 years of age

MSDS See Material Safety Data Sheets.

Payday notice A notice that shows when your regular payday is. The FLC must post this notice where workers can see it.

PCA See Agricultural Pest Control Advisor.

PCB See Pest Control Business.

Permit to Employ Employers must have a special permit to employ each minor that works for them. The permit is issued by the local school district. You must have the permit on file and available for inspectors at all times.

Permit to Work All minors who are not high school graduates must have a work permit issued by the local school district.

Pest Control Business (PCB) A person licensed by the state Department of Pesticide Regulation to engage in the business of pest control for hire. The PCB must also register with the local County Agricultural Commissioner before engaging in any pest control work in that county.

Pesticide Safety Information Series (PSIS) These are leaflets that have information about safety procedures, hazards, medical treatment, workers' rights, and descriptions of what particular pesticides do and how they affect workers. They are available free from DPR or your local County Agricultural Commissioner. (On-line at www.cdpr.ca.gov)

Potable water Water that is safe for people to drink.

PSIS See Pesticide Safety Information Series.

Pull Notice Program A state program that requires employers to keep the employee's driving records which are regularly sent to the employer by the Department of Motor Vehicles. The records must be shown to the CHP upon request.

Restricted Entry Interval The amount of time that must pass before people can safely enter a field that has been treated with pesticides.

REI See Restricted Entry Interval.

ROPS Rollover protective structure, a required safety structure that protects tractor drivers.

SDI See State Disability Insurance.

State Disability Insurance (SDI) Pays benefits to employees who are injured off the job, and is paid for by the employee through a wage deduction.

Statement of Pay Rates A notice that shows the crop, type of work and the amount you will pay workers.

TA Transportation Authorized. A federal authorization to hire drivers to drive farmworkers in a motor vehicle.

Treated Field Any area that has been treated with a pesticide in the production of an agricultural commodity during the current use season (3 CCR 6761). Treated fields must not be entered until the restricted entry interval has elapsed.

USC United States Code (federal law)

USDOL See Department of Labor.

VC Vehicle Code

Work Permit See Permit to Work.

Workers' Compensation Insurance Insurance paid for by the employer that pays benefits to employees who are injured on the job.

Web Sites

For additional information,
visit the following Web
sites:

California/State

Department of Industrial Relations	DIR	www.dir.ca.gov
Division of Labor Standards Enforcement	DLSE	www.dir.ca.gov/dlse
Division of Occupation Safety & Health	DOSH	www.dir.ca.gov/dosh
Employment Development Department	EDD	www.edd.ca.gov
Department of Motor Vehicles	DMV	www.dmv.ca.gov
Department of Pesticide Regulation	CDPR	www.cdpr.ca.gov

U.S./Federal

Department of Labor	DOL	www.dol.gov
Department of Homeland Security	DHS	www.dhs.gov
Internal Revenue Service	IRS	www.irs.gov